

REVISED BY-LAWS  
OF  
CROSSWINDS COMMUNITY HOMEOWNERS, INC.  
AS APPROVED MAY 27, 2017

ARTICLE I  
NAME AND LOCATION

Section 1. 01. Name and Location: The name of the corporation is the Crosswinds Community Homeowners, Inc., hereinafter referred to as the "Association" located in Ellery, New York.

ARTICLE II  
DEFINITIONS

As used in these By-Laws, the following terms shall be defined as:

Section 2.0.1. Declaration: The document entitled "Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens - "Crosswinds" imposed by the Sponsor on the "Property," as defined below, as it may from time to time be supplemented or amended in the manner provided for in said Declaration.

Section 2. 02. Lot: Any portion of the Property under the scope of the Declaration (with the exception of Association Property as defined in the Declaration) and (i) identified as a separate parcel on the tax records of the Town of Ellery or (ii) shown as a separate lot on any recorded or filed subdivision map.

Section 2. 03. Lot Owner: The holder of record title, whether one or more persons or entities, of the fee interest in any Lot, whether or not such holder actually resides on such Lot.

Section 2.04. Property: All lands which are subject to the Declaration and improvements thereon.

Section 2.05. Sponsor: Crosswinds Development Corporation, its successors and assigns. It is noted that the Sponsor is no longer an Owner of or in any way affiliated with the Association and has sold its entire interest to 3<sup>rd</sup> Parties.

ARTICLE III  
MEMBERS

Section 3.01. Membership in the Association: The Members of the Association shall be the Lot Owners.

Section 3.02. Voting Rights: Each Lot Owner shall have one (1) vote for each Lot owned. Notwithstanding anything to the contrary which may be contained in the Declaration, if an institutional first mortgage lender whose name appears on the records of the Association (i) holds a mortgage on a Lot or Lots which prohibits the mortgagor from voting contrary to the interest of the mortgagee, and (ii) notifies the Association prior to the date or initial date of canvass on the vote to be taken of its position on the matter being voted upon, a vote of the Owner of the Lot contrary to the position of such mortgage lender shall not be counted in such canvass. Any Lot Owner who is in violation of the Declaration or these By-Laws, as determined by the Board of Directors of the Association, shall not be entitled to vote during any period in which such violation continues, provided that in no event may a Lot Owner's voting rights be suspended for non-payment of assessments.

Section 3.03. Voting Regulations: The Board of Directors of the Association may make such regulations,

consistent with the terms of the Declaration, the Certificate of Incorporation, these By-Laws, and the Not-for-Profit Corporation Law of the State of New York, as it deems advisable for any meeting of the Lot Owners, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Lot Owners for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.04. Corporate or Partnership Lot Owners: Any votes of a corporate member may be cast by an appropriate officer of such corporation. Any vote of a partnership member may be cast by a general partner of such partnership.

Section 3.05. Joint or Common Ownership: If a Lot is owned by more than one person, as joint tenants, tenants by the entirety or as tenants in common, the persons owning such Lot shall attempt to reach agreement as to the matter voted upon and cast their vote for their Lot. If no agreement is reached, each of such persons may exercise the portion of the vote for such Lot that is equivalent to such person's portion of ownership in such Lot.

Section 3.06. Absentee Ballots and Proxy Voting: On any matter submitted to the Lot Owners for vote, any Lot Owner entitled to vote may cast a vote without attending the meeting in question by filing a written statement with the Board of Directors prior to the meeting in question, specifying the issue on which the Lot Owner intends to vote and that the Lot Owner votes for or against the same. Lot Owners unable to attend a meeting at which Directors of the Association are to be elected shall be entitled to file an absentee ballot if so provided by the Board of Directors or may vote by a proxy which shall be in writing and shall be filed with the secretary of the Association. The person appointed as proxy need not be a Lot Owner. Designation by a Lot Owner or Owners of a proxy to vote or to act on his, her or their behalf shall be made in writing to the Board and shall be filed with the Secretary of the Association. Any such proxy shall be revocable at any time by actual notice to the Board of Directors by the Lot Owner or Lot Owners making such proxy. Notice to the Board of Directors in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

#### ARTICLE IV MEETING OF MEMBERS

Section 4.01. Annual Meeting: There shall be an Annual Meeting of the Lot Owners between May 15 and June 15 at a time and at such place convenient to the Lot Owners as shall be designated by the Board of Directors, which meeting shall be for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. Failure to hold an Annual Meeting at the designated time shall not, however, invalidate the corporate existence or affect otherwise valid corporate acts.

Section 4.02. Special Meetings: Special Meetings of the Lot Owners may be called at any time by the President or by the Board of Directors, or at the request in writing of Lot Owners owning not less than 25% of the Lots.

Section 4.03. Notice Of Meetings: Not less than seven (7) days or more than sixty (60) days before the date of any Annual or Special Meeting of Lot Owners, the Association shall give to each Lot Owner entitled to vote at such meeting, written notice stating the time and place of the meeting, and, in the case of a Special Meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting and the purpose of purposes for which the meeting is called. Such notice shall be delivered either by mail or by presenting it to the Lot Owner personally, or electronically by means of the Internet. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, addressed to the Lot Owner at his or her permanent post office address as it appears on

the records of the Association. If delivery is made through the internet it shall be to the last email address provided by the Owner to the Board and shall be deemed delivered when sent. If the notice for a Special Meeting is not given within ten (10) days after a valid request for such Special Meeting was received by the Board of Directors, the person requesting such meeting may fix the date, time and place of such meeting and give notice thereof to all Lot Owners. Notwithstanding the foregoing provision a waiver of notice in writing, signed by the person or persons entitled to such notice, whether before or after such meeting is held, or actual attendance at the meeting in person without protesting, at or prior to the commencement of the meeting, the lack of proper notice shall be deemed equivalent to the giving of such notice to such persons. Any meeting of Lot Owners, Annual or Special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement at the meeting at which the adjournment is taken. It is the obligation of the Lot Owner to inform the Board of the Owner's email address and permanent post office address.

Section 4.04. Quorum: Except as may otherwise be provided in these By-Laws, the presence in person or by proxy of Lot Owners having twenty percent (20%) of the total authorized votes of all Lot Owners shall constitute a quorum at any meeting of Lot Owners. If any meeting of Lot Owners cannot be held because a quorum is not present, a majority of the Lot Owners who are present at such meeting, either in person or by proxy, may, without notice other than announcement to those physically present, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, and from time to time thereafter, until a quorum shall be present in person or by proxy. The quorum required in each reconvened meeting shall be one-half of the quorum required for the previous meeting. The act of two-thirds (2/3) of the Lot Owners present at a meeting at which a quorum was present shall be the act of the Lot Owners unless the act of a greater or lesser number is required by law, or by the Certificate of Incorporation of the Association, the Declaration or these By-Laws.

Section 4.05. Waiver and Consent: Wherever the vote of the membership is required by law, or by the Certificate of Incorporation of the Association, the Declaration or these By-Laws, to be taken in connection with any action of the Association, the meeting and vote of the membership may be dispensed with if all Lot Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

Section 4.06. Actions Without a Meeting: All actions, except removal of a Director, which may be taken at a meeting of the Association, may be taken without a meeting with the approval of, and in a writing or writings signed by members having the percentage of voting power required to take such action if it had been taken at a meeting. Such writings shall be filed with the Secretary of the Association. A copy of such action when so approved shall be mailed promptly to all members of the Association.

Section 4.07. Order of Business at Meeting: The order of business at all regular meetings of members of the Association shall be as follows:

- (1) Calling of meeting to order;
- (2) Proof of notice of meeting or waiver of notice;
- (3) Approval of minutes of preceding meeting;
- (4) Reports of officers;
- (5) Reports of committees;
- (6) Unfinished and/or old business;
- (7) New business;
- (8) Election of Directors;
- (9) Adjournment.

ARTICLE V  
BOARD OF DIRECTORS

Section 5.01. Number and Qualification of Directors: The business and affairs of the Association shall be managed by the Board of Directors. The Board of Directors shall consist of five (5) persons unless a different number is approved by two-thirds (2/3) of the votes cast at an Annual Meeting, and who shall be elected at the Annual Meeting.

Section 5.02. Nominations: Nominations for election to the Board of Directors shall be made by a Nominating Committee which shall consist of a chairman, who may or may not be a Director, and two (2) or more other Lot Owners. Nominations may also be made from the floor at the annual meeting of the Association. The members of the Nominating Committee shall be appointed by the Board of Directors at least thirty (30) days prior to each Annual Meeting of the Lot Owners and shall serve only to make the nominations for Directors to be elected at that meeting.

The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its sole discretion determine, but not less than the number of vacancies that are to be filled.

Section 5.03. Election and Term: The term of office of members of the Board of Directors shall be fixed at three (3) years unless a shorter term is required to maintain a staggered Board. Tie votes shall be decided by a runoff election unless all parties tying agree to a drawing of lots. Voting shall be by secret written ballot which shall:

- a. set forth the number of vacancies to be filled;
- b. set forth the names of those nominated by the Nominating Committee to fill such vacancies;
- c. and, contain space for a write-in for each vacancy.

The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5.04. Vacancies: Directors elected by the Lot Owners may be replaced by the majority vote of the remaining Directors subject to the provisions of Section 5.05 or by a special election by Lot Owners. Any vacancy occurring in the Board of Directors may be filled at any meeting of the Board of Directors by the affirmative vote of a majority of the remaining Directors or by a sole remaining Director and, if not previously filled, shall be filled at the next succeeding meeting of the Lot Owners of the Association. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose vacancy such person was elected to fill.

Section 5.05. Removal: Subject to the limitations as provided in this Section 5.05, at any regular or special meeting of Lot Owners, any one or more of the members of the Board of Directors elected by the Lot Owners may be removed with cause by the affirmative vote of Owners of not less than a majority of the Lots, or without cause by the affirmative vote of Owners of not less than two-thirds (2/3) of the Lots, and a successor may then and there or thereafter be elected by the Lot Owners to fill the vacancy thus created. Any member of the Board of Directors whose removal has been proposed by the Lot Owners shall be given an opportunity to be heard at the meeting. In addition, the other Directors may, by the affirmative vote of not less than two-thirds (2/3) of the other Directors, declare the position of the Director vacant in the event the person filling such position (i) shall be absent from three (3) consecutive meetings or (ii) is physically incapacitated or has been judicially determined to be of unsound mind.

Section 5.06. Compensation: Directors shall not receive any compensation or salary for their services. Any Director may be reimbursed for actual expenses incurred in the performance of such Director's duties. A Director who serves the Association in any other capacity, however, may receive compensation

subject to specific approval by the other Board Members.

Section 5.07. Organization Meeting: Immediately after each annual meeting of Lot Owners, the newly elected Directors and those Directors whose terms hold over shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting of Directors need not be given.

Section 5.08. Regular Meetings: Regular meetings of the Board of Directors shall be held without notice at such places and at such times convenient to the Directors as may be designated from time to time by resolution of the Board of Directors. Participation of a Board member electronically shall be permitted at the discretion of a majority of the Board so long as each member participating can hear and be heard by others.

Section 5.09. Special Meetings: Special Meetings of the Board of Directors may be called at any time at the request of the President or any two Directors after not less than two (2) days notice to each Director which notice shall state the time, date and purpose of such meeting. Such notice may be given in any manner that the Director receiving it may have a reasonable opportunity to attend the meeting. The person or persons authorized to call such Special Meeting of the Board may fix any place convenient to the Directors as a place for holding such Special Meeting. Any Director may, in writing, signed by such Director, before or after the time of the Special Meeting stated therein, waive notice of any Special Meeting. The attendance of a Director at any Special Meeting shall constitute a waiver of notice of such Special Meeting. Participation of a Board member electronically shall be permitted at the discretion of a majority of the Board.

Section 5.10. Meetings to be Open to Lot Owners: All meetings of the Board of Directors shall be open to all Lot Owners.

Section 5.11. Quorum and Voting: A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at all meetings of the Board of Directors. Except in cases in which it is provided otherwise by statute, by the Certificate of Incorporation, or by the By-Laws, a vote of a majority of such quorum at a duly constituted meeting shall be sufficient to elect and pass any measure. In the absence of a quorum, the Directors present may adjourn the meeting from time to time by majority vote of those Directors present, and without further notice, until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted at the meeting which might have been transacted as originally called.

Section 5.12. Regulations: The Board of Directors may establish such regulations consistent with these By-Laws and the Declaration as they deem appropriate for the governance of its action.

Section 5.13. Action Without a Meeting: Any action, except the removal of officers, required or permitted to be taken at a meeting of the Board of Directors or of any committee thereof may be taken without a meeting, provided a written consent to such action is signed by all members of the Board of Directors or of such committee, as the case may be, and provided further that such written consent is filed with the minutes of proceedings of the Board or committee.

Section 5.14. Powers and Duties: The powers, duties and authority of the Board of Directors shall specifically include, but shall not be limited to the following:

- a. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Lot Owners by other provisions of these By-Laws, the Certificate of Incorporation or the Declaration;

- b. Determine, levy and collect the maintenance assessments, special assessments and other charges as provided for in the Declaration or these By-Laws for (i) the maintenance, care and preservation and operation of the Association Property, and (ii) the services which the Association provides to the Lot Owners;
- c. Procure and maintain as it is obligated to obtain by the Declaration or these By-Laws or as it otherwise deems appropriate (i) adequate liability insurance covering the Association, its Directors, officers, agents and employees and (ii) adequate hazard insurance on the Association's Property and (iii) any other insurance, e.g. officers' and Director's liability insurance, workers' compensation insurance, a fidelity bond covering those handling Association funds and "umbrella" catastrophe coverage;
- d. Subject to the provisions of the Declaration or these By-Laws, repair, restore or alter the Association Property after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings ;
- e. Adopt and publish rules and regulations governing the use of the Association's Property including but not limited to the marina, tennis courts, gazebo, water and sewage systems and retained roads, and the personal conduct of the Lot Owners and their guests thereon, and establish penalties for infractions thereof;
- f. Collect delinquent assessments by suit or otherwise, to abate nuisances and to enjoin, or seek damages from or impose penalties on Lot Owners for violations of the provisions of the Declaration or these By-Laws or of any rules or regulations of the Association;
- g. Pay all taxes owing by the Association;
- h. Suspend the voting rights of a Lot Owner, after notice and hearing, for a period not to exceed 30 day for infractions of published rules and regulations, provided that in no event shall the Board of Directors suspend the voting rights of a Lot Owner for nonpayment of assessments to the Association;
- i. Purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer and dispose of property of any description or any interest therein;
- j. Keep a complete record of its actions and the corporate affairs of the Association and present a statement thereof to the Lot Owners at the annual meeting of Lot Owners, or at any special meeting of Lot Owners when such a statement is requested in writing by not less than twenty percent (20%) of the Lot Owners.
- k. Issue, or cause to be issued, as provided in the Declaration or these By-Laws, "Assessment Certificates" setting forth the status of payment of assessments for any Lot and architectural approvals for additions, modifications or alterations to improvements on Lots;
- l. Supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- m. Maintain, repair and replace as necessary all Association Property.
- n. Enter into contracts;

- o. Borrow money as permitted by Section 5.12 of the Declaration or these By-Laws;
- p. Employ a managing agent and such other persons or firms to perform such duties and services as the Board of Directors may authorize.

## ARTICLE VI OFFICERS

Section 6.01. Officers: The officers of the Association shall be the President one or more Vice Presidents, (the number thereof to be determined by the Board of Directors), the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors from among its membership. The Board of Directors may appoint such other officers as it shall deem desirable, such officers to have the authority and to perform the duties prescribed from time to time by the Board of Directors. No officer of the Association shall receive compensation for services as an officer.

Section 6.02. Election and Appointment of Officers: The elective officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors. Appointive officers shall be appointed at such time and shall hold their office for such terms as the Board of Directors shall determine from time to time.

Section 6.03. Term and Vacancies: Each elective officer shall hold office until the next organizational meeting of the Board of Directors following the annual meeting of Lot owners and until their successors are chosen and qualified, unless he or she shall sooner resign, or shall be removed or otherwise be disqualified to serve. The vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 6.04. Removal of Officers: Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and a successor to such office 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 6.05. President: The President shall be the chief executive officer, shall supervise the work of the other officers, shall preside at all meetings of Lot Owners, and of Directors, and shall perform such other duties and functions as may be assigned to him or her by the Board. He or she may sign, in the name of the Association, any and all contracts or other instruments authorized by the Board or these By-Laws.

Section 6.06. Vice President: The Vice Presidents shall perform such duties as are conferred upon them by these By-Laws or as may from time to time be assigned to them by the Board or the President. At the request of the President, or in his absence or disability, the Vice President designated by the President (or in the absence of such designation, the Vice President designated by the Board) shall perform all the duties of the President, and when so acting, shall have all the power of the President. The authority of Vice Presidents to sign in the name of the Association all contracts, notes and other instruments, shall be coordinate with like authority of the President.

Section 6.07. Secretary: The Secretary shall cause notices of all meetings to be served as prescribed in these By-Law, shall record the votes and keep the minutes of all meetings, shall have charge of the seal, if any, and corporate records of the Association, shall keep records of the Lot Owners of the Association and the mortgagees of dwelling units on the Property, and shall perform such other duties as are assigned to him or her by the President or the Board. Any Assistant Secretary shall be capable of performing all of

the duties of the Secretary.

Section 6.08. Treasurer: The Treasurer shall have general supervision of all finances; shall receive and have charge of all money, bills, notes, documents and similar property belonging to the Association, and shall do with the same as may from time to time be required by the Board. He or she shall cause to be kept adequate and correct accounts of the business transactions of the Association, including accounts of its assets, liabilities, receipts, expenditures, profits and losses, together with such other account as may be required, and upon the expiration of his or her term of office shall turn over to the successor Treasurer or to the Board all property, books, documents and money of the Association in his or her hands; and shall perform such other duties as from time to time may be assigned to him or her by the Board.

Section 6.09. Other Officers: The Board of Directors may appoint such assistant and subordinate officers as it may deem desirable. Each such officer shall hold office during the pleasure of the Board, and perform such duties as the Board may prescribe. The Board may, from time to time, authorize any officer to appoint and remove subordinate officers and to prescribe their authority and duties.

Section 6.10. Delegation Authority and Duties; Control of Officers: In the absence of any officer of the Association, or for any other reason the Board of Directors may deem sufficient, the Board may delegate the power or duties, or any of them, of such officers, to any other officer or to any Director or the managing agent. In addition, the Board is authorized generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

Section 6.11. Indemnification: Every Director and member of the Architectural Standards Committee or Marina Committee shall be, and is hereby, indemnified by the Association against all expenses and liabilities, including fees of counsel, judgments, decrees, fines, penalties or amounts paid in settlement, reasonably incurred by or imposed upon such Director or committee member in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which such committee member or Director may be a party, or in which such committee member or Director may become involved, by reason of being or having been a Director or committee member of the Association, whether or not such person is a Director or committee member at the time such expenses are incurred, except in such cases wherein the Director or committee member is adjudged guilty of willful misfeasance or malfeasance in the performance of duties; provided, that in the event of a settlement, the indemnification herein shall apply only when the board approves such settlement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to, and shall not be exclusive of, all rights to which each such Director or each such committee member may otherwise be entitled. Funds to cover the above expenses, including fees of counsel, may be advanced by the Association, prior to the final disposition of the matter, upon receipt of an undertaking by or on behalf of the recipient to repay such amounts if it shall ultimately be determined that the recipient is not entitled to indemnification hereunder.

## ARTICLE VII COMMITTEES

Section 7.01. Committees of Directors: The Board of Directors by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which shall consist of two (2) or more Directors, which committees, to the extent provided in the resolution, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Association provided, however, that no such committee shall have the authority of the Board of Directors to approve an amendment to the Certificate of Incorporation of the Association or to the By-Laws or a plan of merger or consolidation. The Board of Directors may discontinue any such committee in its discretion.



All actions by any such committee shall be reported to the Board of Directors at its meeting next succeeding such actions. Such actions shall be subject to control, revision and alteration by the Board of Directors provided that no rights of any third parties shall be prejudiced by any such control, revision or alteration.

Section 7.02. Committees of Lot Owners: In addition to the Architectural Standards Committee and Marina Committee created pursuant to, and which shall have the duties and functions as set forth in the Declaration or these By-Laws, there shall be the Nominating Committee, which shall have the duties as set forth in these By-Laws, and such other committees of Lot Owners with such duties as the Board of Directors may determine from time to time. Each committee shall consist of a chairman and two (2) or more members and need not include a member of the Board of Directors.

Section 7.03. Rules and Records: Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. Each committee shall keep such records and accounts of its proceedings and transactions as it deems appropriate.

## ARTICLE VIII FINANCES AND RECORDS

Section 8.01. Checks: All checks, drafts, and orders for the payment of money, notes and other evidences of indebtedness, issued in the name of the Association shall, unless otherwise provided by resolution of the Board of Directors, be signed by the President, or Treasurer and counter signed by one Director of the Association, provided that the President or Treasurer and Director so signing are not the same person.

Section 8.02 Fiscal Year: The fiscal year of the Association shall be the twelve (12) calendar months ending April 30 of each year, unless otherwise provided by the Board of Directors.

Section 8.03 Annual Reports: There shall be a full and correct statement of the financial affairs of the Association including a balance sheet and a financial statement of operation for the preceding fiscal year prepared by the Treasurer and approved by the Board. Such report shall be made available upon request to all Lot Owners and to all mortgagees of Lots, promptly after the end of each fiscal year as well as at the annual meeting. Taking into consideration the cost of an audit vs. a review, the complexity and volume of the Association's financial affairs and such other factors the Board of Directors deems relevant, the Board of Directors of the Association shall determine each year whether such statement shall be in the form of an audit or review, except that (i) an audit, at the expense of the Association shall be required if authorized in writing by at least two-thirds (2/3) of all Lot Owners and (ii) any Unit Owner or mortgage holder shall be entitled to obtain an audited statement at such Lot Owner's or mortgagee's own expense. In addition an audit, rather than a review, may be required if requested in writing (i) by Lot Owners of 50% or more of the Lots, in which event such audit will be at the expense of the Association and (ii) by any mortgagee of a Lot in which event such audit will be at the expense of such mortgagee.

Section 8.04. Record Keeping: The Board of Directors or the managing agent retained by the Board of Directors shall keep detailed records of the actions of the Board of Directors and the managing agent, minutes of the meetings of the Board of Directors, minutes of the meetings of Lot 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 maintenance assessment, special assessment and other charges, if any, against such Lot, the dates when installments of assessments are due, the amounts paid thereon, and the balance remaining unpaid. Upon ten (10) days notice to the Board of Directors, any Lot Owner shall be furnished a statement

of account for such Owner's Lot setting forth the amount of assessments for such Lot and the payment status of such assessments and of any other charges owing to the Association by such Lot Owner.

Section 8.05. Separate Account for Capital Reserve Funds: Any funds of the Association collected or designated as reserves for the replacement of capital items may be segregated from all other funds of the Association in one or more separate accounts. This shall not preclude the Association from segregating other portions of its funds in separate accounts for a specific purpose, (reserves for non-capital items) or otherwise.

Section 8.06. Books, Records and Legal Documents Available for Inspection: The Board of Directors shall make available for inspection upon reasonable notice and during normal business hours, to existing and prospective Lot Owners, tenants, title insurers, mortgagees, mortgage insurers and mortgage guarantors, current copies of the Declaration, By-Laws, Certificate of Incorporation, rules and regulations, budget, schedule of assessments, balance sheet and any other books, records and financial statements of the Association. The Board of Directors may furnish copies of such documents to such parties and may charge a reasonable fee to cover the cost of furnishing such copies.

## ARTICLE IX GENERAL POWERS OF THE ASSOCIATION

Section 9.01. Common Expenses: The Association, for the benefit of all the Lot Owners, shall pay for out of Association funds as common expenses, the following:

- a. **Utilities Related Facilities.** The cost of operating and maintaining, repairing and/or replacement of the fresh water plant and the sewage disposal plant, the gazebo, tennis courts, walkways and such other areas as the Board may deem appropriate. The cost of telephone, heat, power or any other necessary utility service, if any, for the Association Property, and the cost of maintaining and/or repairing and/or replacing common gas, water, hot and cold water lines, waste removal and any utilities which costs are not otherwise directly charged or separately metered to individual Owners. In the event any utility service for a Lot is paid by the Association of a kind or nature not furnished to all Lot Owners, the Association shall charge monthly to the Owner of such Lot an estimated cost for such usage. However, the Association may discontinue payments of such utility service at any time, in which case each Owner shall be responsible for direct payment of his share of such expense as shall be determined by the Board of Directors of the Association. The Association shall have the right to levy additional assessments against any Lot Owner to reimburse it for excessive use of any utility service by such Lot Owner in such amounts as shall be determined by the Board of Directors.
- b. **Casualty Insurance.** Premiums for all insurance obtained as required or permitted by the Declaration or these By-Laws for fire insurance, with extended coverage, vandalism and malicious mischief endorsements as provided for in the Declaration or these By-Laws, the amount of which insurance shall be reviewed annually.
- c. **Wages and Fees for Services.** All fees for services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a manager or managing agent for the Association, and legal, accounting or other services or expenses necessary or proper in the conduct of the affairs of the Association or the enforcement or interpretation of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.
- d. **Care of Association Property.** The cost of landscaping, gardening, security, snow removal,

painting, cleaning, decorating, refurbishing, maintenance, repair, replacement and rehabilitation of the property of the Association including the fresh water plant and the sewage disposal plant and their common service lines, and that marina owned by the Association, as required by the Declaration or By-Laws or determined to be appropriate by the Board of Directors from time to time.

- e. **Certain Maintenance of Lots.** The cost of the reasonable maintenance and repair of any Lot or improvement thereon if such maintenance or repair is necessary, in the discretion of the Board of Directors, for public safety or to protect the Association Property or the value of the property of other Lot owners, and the Owner of such lot has failed or refused to perform such maintenance or repair within 15 days after written notice of the necessity thereof delivered by the Association to such lot Owner; provided that the Association shall levy a special assessment against such Lot Owner for the cost of such maintenance or repair, including interest at 9% per annum for such monies expended by the Association.
- f. **Discharge of Mechanic's Liens.** Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Crosswinds Community or any part thereof which may in the opinion of the Association constitute a lien against the entire Crosswinds Community or any part thereof, rather than solely against the interests therein of any particular Lot Owner; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating thereto. Where one or more Lot Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging such lien, and any costs incurred by the Association by reason of such lien shall be specially assessed against such Lot Owner or Lot Owners.
- g. **Additional Expenses.** The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, or other expenses which the Association is required or permitted to secure or pay for pursuant to the terms of the Declaration or these By-Laws, which in the opinion of the Board of Directors shall be necessary or proper for the maintenance and operation of the Association Property to preserve the Property as a first class community.

Section 9.02. Capital Additions, Alterations and Improvements: Notwithstanding anything in these By-Laws or in the Declaration which authorizes expenditures no single expenditure shall be made by the Board of Directors for any additions, alterations or improvements (as distinguished from maintenance, repair or replacement) of Association Property exceeding in total cost \$20,00.00 without in each case having the prior approval of a majority of all Lot Owners who shall be present in person or by proxy at an annual or a special meeting duly held for such purpose. If such approval is obtained, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Lot Owners for the cost thereof as a common expense if determined to be necessary by the Board. The limitations on expenditures by the Board contained in this Section shall in no event apply to repair of Association Property due to casualty loss, emergency repairs immediately necessary for the preservation and safety of Association Property, for the safety of persons or to avoid suspension of any necessary services.

Section 9.03. Change in Basis of Assessments: The Association may change the basis of determining the Maintenance Assessment by obtaining the written consent of not less than two-thirds (2/3) of the total votes of all Lot Owners voting in person or by proxy at an Annual Meeting. Any change in the basis of the Assessments shall be equitable and non-discriminatory within the following classifications: (i) Lots containing Units and (ii) Lots which do not contain Units.

Section 9.04. No Active Business to be Conducted for Profit: Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Lot Owners or any of them.

Section 9.05. Special Assessments for Capital Improvements: In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction or replacement of, or repair of a capital nature to the Association Property or to Lots which the Association as the responsibility to maintain, including the necessary fixtures and personal property related thereto. Such special assessments shall require the same approval as specified in section 9.02.

Section 9.06. Non-Payment of Assessment or Other Monies Due the Association: If an Assessment, or installment payment thereof, is not paid on the due date, established pursuant to Section 5.03 hereof, then such Assessment payment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien on the Lot which shall bind the Lot in the hands of the then Owner and such Owner's heirs, devisees, personal representatives, successors and assigns. In addition to such lien, the then Owner of the Lot may be held personally liable for the payment thereof (including interest, penalties and costs of collection). Subject to the conclusive and binding effect of an assessment certificate issued as provided in Section 5.10 of the Declaration, the grantee of a voluntary conveyance of a Lot shall be jointly and severally liable with the grantor for all unpaid Assessments against such Lot prior to the time of conveyance without prejudice to the grantee's right of recovery therefor from the grantor. The lien for any past due Assessment may be memorialized by the filing in the Chautauqua County Clerk's Office of a certificate of lien against the Lot and/or the Owner of the Lot. Such certificate shall be sufficient security notice for Assessments due and payable after such filing. The failure to file such certificate shall have no effect on the existence of the lien, or on the right of the Association to file a lien in the future or to collect Assessments owing for a Lot.

Section 9.07. Delegation of Duties: Nothing herein contained shall be construed so as to preclude the Association, through the Board of Directors or officers of the Association, from delegating to persons, firms or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association as the Board of Directors shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 9.08. Acquisition, Lease, Sale or Exchange of Real Property: Whenever the Board of Directors determines to acquire, lease, sell or exchange real property or any interest therein the Board shall submit such acquisition, sale, lease or exchange to the vote of the Lot Owners, and, upon the affirmative vote of the Owners of seventy-five percent (75%) or more of the Lots present in person or by proxy at an annual meeting or a special meeting duly held for such purpose, the Board of Directors may proceed with such acquisition, sale, lease, sale or exchange, in the name of the Association and on behalf of all Lot Owners, and the costs and expenses incident thereto shall constitute part of the common expenses of the Association.

## ARTICLE X GENERAL COVENANTS AND RESTRICTIONS

Section 10.01. Control by Association: Enforcement of the provisions governing any of the matters set forth in the Declaration, the By-Laws and appendices and any amendments shall be the responsibility of the Board. The Board may at its discretion, without surrendering its overall responsibility, delegate certain tasks and responsibilities to the Architectural Standards Committee, the Marina Committee or any

other Committee the Board may choose to establish.

Section 10.02. Composition and Function of Architectural Standards Committee: The Architectural Standards Committee (the "Architectural Committee") shall be a permanent committee of the Association and shall approve all proposed additions, modifications or alterations to any Improvements or any proposed change in the use of a Lot or any other portion of the Property (including Association Property). The Architectural Committee may also assist and advise the Board of Directors of the Association in enforcing these By-Laws and in advertising and publishing rules, regulations and guidelines, and may from time to time perform such other duties or functions as may be assigned to it by the Board of Directors. The Architectural Committee shall be composed of three or more persons (as determined by the Board of Directors from time to time). The Committee members shall be designated by the Board of Directors of the Association for terms of two (2) years, but shall be subject to removal, with or without cause by the affirmative vote of not less than three-fourths (3/4) of the members of the Board of Directors. All Committee members shall be Lot Owners or spouses of Lot Owners.

Section 10.03. Submission of Plans to Architectural Committee: No addition, modification or alteration shall be made on or to a Lot or other portion of the Property or the Improvements located thereon, nor shall the use thereof be changed, unless and until a plan or plans therefore, in such form and detail as the Architectural Committee requires, have been submitted to, and reviewed and approved by the Architectural Committee. The Architectural Committee may charge and collect a reasonable fee for the examination of plans submitted for approval.

Section 10.04. Basis for the Disapproval of Plans by the Architectural Committee: The Architectural Committee may disapprove any plans submitted pursuant to Section 10.03 above for any of the following reasons:

- a. failure of such plans to comply with any protective covenants, conditions or restrictions contained in the Declaration or these By-Laws and which benefit or encumber the Lot or other portion of the Property;
- b. failure to include information in such plans as requested;
- c. objection to the site plan, exterior design, appearance or materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, style of architecture, proposed parking, height, bulk or appropriateness of any proposed improvements;
- d. incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses in the vicinity;
- e. the failure of proposed improvements to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules or regulation;
- f. any other matter which in the judgement and sole discretion of the Architectural Committee would render the proposed improvements, use or uses in harmonious or incompatible with the general plan of improvement of the Property or portion thereof or with improvements or uses in the vicinity.

Section 10.05. Approval of Architectural Committee: Upon approval or qualified approval by the Architectural Committee of any plans submitted pursuant to Section 10.03 above, the Architectural Committee shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as

approved for permanent record (together with such qualifications or conditions, if any) and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval. Approval of any such plans relating to any Lot or other portion of the Property shall be final as to such Lot or portion of the Property and such approval may not be revoked or rescinded thereafter provided (i) that the improvements or uses shown or described on or in such plans do not violate any protective covenants, conditions or restrictions set forth in the Declaration or the By-Laws which benefit or encumber the lot or other portion of the Property, and (ii) that such plans and any qualifications or conditions attached to such approval of the plans do not violate any applicable governmental law, rule or regulation, zoning, building, health or other code or ordinance. Approval of any plans for use in connection with any Lot or other portion of the Property shall not be deemed a waiver of the right of the Architectural Committee to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use in connection with any other lot or other portion of the Property.

Section 10.06. Written Notification of Disapproval: In any case where the Architectural Committee disapproves any plans submitted hereunder, the Architectural Committee shall so notify the applicant in writing together with a statement of the grounds upon which such action was based as set forth in Section 10.04. In any such case, the Architectural Committee shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 10.07. Failure of Committee to Act: If any applicant has not received notice of the Architectural Committee approving or disapproving any plans within thirty-five (35) days after submission thereof, said applicant may notify the Committee in writing of that fact. The plans shall be deemed approved by the Committee unless notice to the contrary is given by the Committee not later than the later of:

- a. Fifteen (15) days after the date of such notice, if such notice is given;
- b. Seventy (70) days after the date the plans were originally submitted.

Section 10.08. Committee's Right to Promulgate Rules and Regulations: The Architectural Committee may from time to time promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, additions or modifications to Improvements, or uses; provided, however, that no such rule or regulation shall be deemed to bind the Architectural Committee to approve or disapprove any plans submitted for approval, or to waive the exercise of the Committee's discretion as to such plans, and provided further that no such rule or regulation shall be inconsistent with the provisions of the Declaration or any applicable governmental law, code, ordinance, rule or regulation.

Section 10.09. Delegation of Functions: The Architectural Committee may authorize subcommittees or individual members of the Architectural Committee to perform any or all of the functions of the Committee as long as the number and identity of such members, the functions and scope of authority have been established by a resolution of the entire Architectural Committee. The approval or disapproval of plans by the individual member or subcommittee will be subject, however, to the reasonable review of the Architectural Committee, in accordance with procedures to be established by the Committee.

Section 10.10. Records of Meetings and Regulations: The Architectural Committee shall keep minutes of meetings and maintain records of all votes taken at meetings. The Architectural Committee shall make such records and current copies of its rules and regulations available at reasonable places and times for inspection by any person.

Section 10.11. Liability of Architectural Committee: No action taken by the Architectural Committee or

any member, subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Lot or other portion of the Property. Neither the Association nor the Architectural Committee, nor any member, subcommittee, employee or agent shall be liable to anyone submitting plans to them for approval or to any Owner, Member or any other person, in connection with any submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Architectural Committee agrees, by submission of such plans that no action or suit will be brought against the Association or the Architectural Committee (or any member, subcommittee, employee or agent thereof) in connection with such submission.

Section 10.12. Composition and Function of Marina Committee: The Marina Committee shall be a permanent committee of the Association and shall be responsible for the maintenance and operation of the Marina, the boat launch, the common Chautauqua Lake boat dock, the Marina waters and the Marina berm, in addition to such responsibilities as may be assigned by the Board. The Committee will establish Rules for the equitable assignment of docks, and make such assignments. The Committee will prepare and present to the Board for its review and approval its recommended Rules and annual budget and its recommendation for fees to be assessed to users. The Committee shall be composed of three or more persons as shall be determined by the Board from time to time. The Committee Members shall be designated by the Board for terms of two (2) years, but shall be a subject to removal, with or without cause, by the affirmative vote of not less than three-quarters of the members of the Board. All Committee members shall be Lot Owners or spouses of Lot Owners and an Owner of an entitlement to a boat slip.

Section 10.13. Commercial Vehicles: Unless used in connection with the construction or sale of a Lot, or with the construction of improvements to the Association Property, or with the maintenance of the Association Property by the association or unless otherwise consented to by the Board of Directors of the Association, no commercial vehicles of a weight of two (2) tons or more and no unlicensed vehicles shall be permitted to remain on the Property overnight unless located within a garage.

Section 10.14. Maintenance: The Owner shall keep the Lot or other portion of the Property and all Improvements thereon in compliance with all applicable State and local laws and ordinances and with the provisions of the Declaration or these By-Laws and of any rules and regulations of the Association in good order and repair, including, but not limited to, seeding, watering and mowing all lawns, pruning and cutting all trees and shrubbery, and painting or other appropriate external care of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management .

Section 10.15. Advertising and Signs: No signs or other advertising device of any nature shall be placed for display to the public view on any Lot except one temporary sign that is similar in appearance to the general Chautauqua County realtor professionally prepared signs for the sale of residential real estate, advertising the sale of the premises. In addition, a professionally appearing sign of a size not greater than half the size of the lot sign may be placed at the Route 430 entrance to Crosswinds. If realtors have more than one property for sale in Crosswinds only one sign of such realtor may be placed at the Route 430 entrance. The Architectural Standards Committee shall have the right to disapprove and remove any sign not reasonably conforming to the foregoing standards.

Section 10.16. Animals, Birds and Insects: No animals or birds shall be kept or maintained on any Lot or other portion of the Property other than for domestic purposes, except birds in a cage, fish, not more than two dogs, cats or other household pets and subject to such reasonable rules and regulations which the Board of Directors of the Association may impose from time to time governing the care and conduct of such animals or birds.

Section 10.17. Protective Screening and Fences: Any screen planting, fence enclosures or walls on a Lot or other portion of the Property shall require the prior approval of the Architectural Standards Committee and be maintained by the Owner of said Lot or other portion of the Property and shall not be removed or replaced with other than a similar type of planting, fence or wall except with the permission of the Architectural Committee. No fence, wall or screen planting shall be maintained so as to obstruct sight lines for vehicular traffic.

Section 10.18. Garbage and Refuse Disposal: Except for building materials during the reasonable course of construction or repair of any approved Improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate outdoors on any Lot or other portion of the Property, except in sanitary containers and screened from adjacent and surrounding property. Such containers may be placed in the open within twenty-four (24) hours of a scheduled pickup, at such place on the Lot or other portion of the Property so as to provide access to persons making such pickup. All containers for the storage or disposal of Trash shall be kept in a clean and sanitary condition and in such location that they are not readily visible from adjoining Lots.

Section 10.19. Selling, Leasing and Mortgaging of Units: An owner may sell or mortgage his Lot to anyone without restriction. If an owner sells his Lot, the purchaser automatically becomes a member of the Association.

An Owner may lease or rent his Unit to any person. Any lease or rental agreement shall be in writing, shall be for the entire Unit and shall provide that the lessee or tenant shall comply in all respects with all of the terms and provisions of the Declaration, the By-Laws and rules and regulations of the Association. If a lessee or tenant is in violation of the Declaration, By-Laws or rules and regulations, the Board of Directors shall so notify the Owner of the Lot which such lessee or tenant occupies. If the violation is not cured or eviction proceedings commenced against the lessee or tenant within fourteen (14) days after the Owner has received notice of such violation, and diligently pursued thereafter, the Board of Directors may pursue any remedies which it may have pursuant to the Declaration or these By-Laws.

Section 10.20. Minimum Term of Rental Units: No owner shall lease or rent the Unit on such Owner's Lot to any party for any portion of the period between Memorial Day and Labor Day of each year unless the term of such lease or rental (i) is for thirty (30) days or more, (ii) commences prior to Memorial Day of such year, or (iii) expires after Labor Day, except with the written consent of the Board of Directors of the Association.

Section 10.21. No Above Surface Utilities: No facilities, including without limitation, poles and wires for the transmission of electricity or telephone messages, and water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground on any portion of the Property.

Section 10.22. Television and Radio Antennas: No television, radio or other communication antenna shall be erected on any Lot or other portion of the Property, (i) outside or (ii) inside, if it emanates or creates radio, television or other communication system interference with a communication system being used on any other Lot.

Section 10.23. Residential Use Only: Except as provided in Section 10.24 below, no Lot or other portion of the Property shall be used for other than residential purposes and purposes incidental and accessory.

Section 10.24. Commercial and Professional Activity on Property: No wholesale or retail business, including any salon, studio, laboratory, home industry or medical or dental office, shall be conducted in



or on any Lot or other portion of the Property without the consent of the Board of Directors, except the conducting of business by telephone. This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above.

Section 10.25. Outside Storage: After issuance of a Certificate of Compliance with respect to a Lot or other portion of the Property, there shall be no outside storage or parking of commercial or recreational vehicles, camper bodies, boats and trailers for no more than seven (7) consecutive days in any thirty (30) day period, except as may be otherwise permitted by the Association's Board of Directors in the boat trailer storage area subject to the limitations of the Board of Directors.

Section 10.26. Maintenance and Repair Work: Except with the written consent of the Association's Board of Directors or in conjunction with the initial construction of a Unit, or with emergency repairs, (i) no extensive work on any motor vehicles, boats or machines of any kind shall be permitted outdoors on any Lot or other portion of the Property, (ii) no maintenance or repair work shall be done on any Lot which unreasonably disturbs the occupants of other Lots, and (iii) no exterior maintenance or repair work (except emergency repairs) shall be performed on Sundays between Memorial Day and Labor Day of each year.

All maintenance and repair work shall be performed reasonably promptly (weather permitting), properly and in a good, workmanlike manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Unit or other Improvements on the Owner's Lot, using competent and qualified labor.

Section 10.27. Oversized, Commercial and Unlicensed Vehicles: Unless used in connection with the construction or maintenance, repair or replacement of the Property, or unless otherwise consented to by the Board of Directors, the following shall not be permitted to remain overnight on the Property:

- a. commercial vehicles of a weight of two (2) tons or more;
- b. unlicensed motor vehicles of any type.

Section 10.28. Clotheslines: No outdoor drying or airing of any clothing or bedding shall be permitted within the Property unless authorized by the Architectural Committee.

Section 10.29. Trees and Other Natural Features: Prior to issuance of a Certificate of Compliance no trees shall be removed from any Lot or portion of the Property except with the permission of the Architectural Standards Committee. After issuance of a Certificate of Compliance with respect to a Lot or other portion of the Property, except as provided below, and except in the event of an emergency, no tree having a diameter of four (4) inches or more, as measured from a point two feet above ground level, nor any other tree or shrub planted in compliance with the plans approved by the Architectural Standards Committee shall be removed from such Lot or other portion of the Property without the permission of the Architectural Committee. The Architectural Committee in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property. The Architectural Committee may designate certain trees, regard less of size as not removable without written authorization.

Section 10.30. Snowmobiles, Motorcycles, All Terrain Vehicles: No snowmobile, motorcycle, all terrain vehicle or similar motor vehicle shall be operated on any portion of the Property except with the consent of the Board of Directors of the Association.

Section 10.31. One Single-Family House per Lot: Each Lot shall be used for one (1) single-family dwelling unit only containing a living area, exclusive of garage, porch, deck, basement and breezeway

area, of not less than 1,000 square feet.

Section 10.32. Roadway and Lot to be Kept Clear of Mud and Debris During Construction: Each Owner shall be required to keep his Lot and the roadway on which the Lot abuts reasonably clear of any accumulation of mud and debris occasioned by any construction undertaken on such Lot. The Association shall have the right, if such accumulation has not been removed after three (3) days' notice to the Lot Owner, to remove said mud or debris and to recover the cost thereof from the Lot Owner including, if necessary, the cleaning and flushing of sewers, flush basins and catch basins. In addition to being the personal obligation of the owner, any such costs, if expended by the Association, shall be a charge and continuing lien on such Lot.

## ARTICLE XI CORPORATE SEAL OPTIONAL

Section 11.01. Corporate Seal Optional: If decided by the Board of Directors, the Association shall have a seal in circular form having within the circumference thereof the full name of the Association.

## ARTICLE XII AMENDMENTS

Section 12.01. Alteration, Repeal or Amendment: These By-Laws may be modified, altered, repealed, amended or added to at any regular or special meeting of Lot Owners provided that:

- a. a notice of the meeting containing a full statement of the proposed modification, alteration, repeal, amendment or addition has been sent to all Lot Owners and mortgagees of Lots as listed on the records of the Association, not less than ten (10) nor more than forty (40) days prior to the date or initial date set for the canvass of the vote thereon; and
- b. two-thirds (2/3) or more of the Lot Owners present at the meeting in person or by proxy approve the change; and
- c. prior to the date or initial date for the canvass of the vote thereon, the Association has not received written notification of opposition to the change from Owners of more than thirty-three percent (33%) of all.

Section 12.02. Form of Amendment Proposals: No By-Laws shall be modified, altered, amended or added to by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be modified, altered, amended or added to, new words shall be inserted in the text underlined, or italicized, and words to be deleted shall be lined through. If the proposed change is so extensive that the above procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and interlining as indicators of words added or deleted, but a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Law See Section \_\_\_\_\_ of By-Laws for present text."

Section 12.03. Nonmaterial Errors or Omissions: Nonmaterial errors or omissions in the By-Law amendment process shall not invalidate an otherwise properly promulgated amendment.

Section 12.04. Effective Date of Amendment: An amendment to these By-Laws shall be effective in accordance with the terms of its adoption.

ARTICLE XIII  
MISCELLANEOUS

Section 13.01. Notices: All notices hereunder shall be in writing and delivered personally, or sent by electronic mail to the address contained in the records of the Association, or sent by mail by depositing same in a post office or letter box in a postpaid sealed wrapper, addressed, (i) if to go to the Board of Directors, or to the Association, to any member of the Board of Directors (ii) if to go to a Lot Owner to such permanent address of such Lot Owner as appears on the books of the Association (iii) if to go to a mortgagee, to the address of such mortgagee as appears on the books of the Association, and (iv) to a devisee or personal representative of a deceased Lot Owner to the address of such devisee or personal representative as appears on the records of the Court wherein the estate of such deceased Lot Owner is being administered. All notices shall be deemed to have been given when mailed or electronically sent, except notices of change of address which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

Section 13.02. Conflict with Certificate of Incorporation or with Declaration: In the case of any conflict between the Certificate of Incorporation and these By-Laws, the By-Laws shall control; and in the case of any conflict between the Declaration and these By-Laws, the By-Laws shall control.

Section 13.03. No Waiver for Failure to Enforce: 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 .

Section 13.04. Gender: The use of the masculine gender in these By-Laws shall be deemed to include the masculine, feminine or neuter and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 13.05. 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 provision thereof.

Section 13.06. Severability: Should any part of these By-Laws be deemed void or become unenforceable at law or in equity, the validity, enforceability or effect of the balance of these By-Laws shall not be impaired or affected in any manner.

