

---

**BY-LAWS  
OF  
SAWMILL RUN PROPERTY OWNERS ASSOCIATION, INC.**

---

Gregory R. Yaw, Esq.  
100 East Second Street  
P.O. Box 729  
Jamestown, New York 14702-0729

---

**BY-LAWS  
OF  
SAWMILL RUN PROPERTY OWNERS' ASSOCIATION, INC.**

**TABLE OF CONTENTS**

**ARTICLE I**

Name and Location

Section 1.01. NAME AND LOCATION . . . . .	1
-------------------------------------------	---

**ARTICLE II**

Definitions

Section 2.01. ASSESSMENTS . . . . .	1
Section 2.02. DECLARATION . . . . .	1
Section 2.03. DEVELOPER . . . . .	1
Section 2.04. LOT . . . . .	1
Section 2.05. LOT OWNER OR OWNER . . . . .	1
Section 2.06. PROPERTY . . . . .	1

**ARTICLE III**

Members

Section 3.01. MEMBERSHIP IN THE ASSOCIATION . . . . .	1
Section 3.02. RIGHT OF DEVELOPER TO ASSIGN . . . . .	2
Section 3.03. VOTING RIGHTS . . . . .	2
Section 3.04. VOTING REGULATIONS . . . . .	2
Section 3.05. CORPORATE LOT OWNERS . . . . .	2
Section 3.06. POWERS AND DUTIES OF DIRECTORS . . . . .	2
Section 3.07. ABSENTEE BALLOTS AND PROXY VOTING . . . . .	2

**ARTICLE IV**

Meetings of Lot Owners

Section 4.01. FIRST MEETING . . . . .	2
Section 4.02. SPECIAL MEETINGS . . . . .	3
Section 4.03. NOTICE OF MEETINGS . . . . .	3
Section 4.04. QUORUM . . . . .	3
Section 4.05. WAIVER AND CONSENT . . . . .	3
Section 4.06. ACTIONS WITHOUT A MEETING . . . . .	3
Section 4.07. ORDER OF BUSINESS AT MEETING . . . . .	3

**ARTICLE V**

Board of Directors

Section 5.01. NUMBER AND QUALIFICATION OF DIRECTORS . . . . .	4
Section 5.02. NOMINATIONS . . . . .	4
Section 5.03. ELECTION AND TERM . . . . .	4
Section 5.04. VACANCIES . . . . .	4
Section 5.05. REMOVAL OF MEMBERS OF BOARD OF DIRECTORS . . . . .	5
Section 5.06. COMPENSATION . . . . .	5
Section 5.07. REGULAR MEETINGS . . . . .	5
Section 5.08. SPECIAL MEETINGS . . . . .	5

Section 5.09. QUORUM AND VOTING . . . . .	5
Section 5.10. INFORMAL ACTION BY DIRECTORS . . . . .	5
Section 5.11. POWERS AND DUTIES . . . . .	6
 ARTICLE VI	
Officers	
Section 6.01. OFFICERS . . . . .	7
Section 6.02. ELECTION AND APPOINTMENT OF OFFICERS . . . . .	7
Section 6.03. TERM AND VACANCIES . . . . .	7
Section 6.04. REMOVAL OF OFFICERS . . . . .	7
Section 6.05. PRESIDENT . . . . .	7
Section 6.06. VICE PRESIDENT . . . . .	7
Section 6.07. SECRETARY . . . . .	7
Section 6.08. TREASURER . . . . .	8
Section 6.09. OTHER OFFICERS . . . . .	8
 ARTICLE VII	
Committees	
Section 7.01. COMMITTEES OF DIRECTORS . . . . .	8
Section 7.02. COMMITTEES OF MEMBERS . . . . .	8
Section 7.03. RULES . . . . .	8
 ARTICLE VIII	
Finances and Record Keeping	
Section 8.01. CHECKS . . . . .	8
Section 8.02. FISCAL YEAR . . . . .	8
Section 8.03. ANNUAL REPORT . . . . .	8
Section 8.04. RECORD KEEPING . . . . .	9
Section 8.05. BOOKS AND RECORDS TO BE AVAILABLE TO LOT OWNERS . . . . .	9
Section 8.06. SEPARATE ACCOUNT FOR CAPITAL RESERVE FUNDS . . . . .	9
 ARTICLE IX	
Corporate Seal Optional	
Section 9.01. CORPORATE SEAL OPTIONAL . . . . .	9
 ARTICLE X	
Amendments	
Section 10.01. ALTERATION, REPEAL OR AMENDMENT . . . . .	9
Section 10.02. FORM OF AMENDMENT PROPOSALS . . . . .	10
Section 10.03. NONMATERIAL ERRORS OR OMISSIONS . . . . .	10
Section 10.04. EFFECTIVE DATE OF AMENDMENT . . . . .	10
 ARTICLE XI	
Miscellaneous	
Section 11.01. NOTICES . . . . .	10
Section 11.02. CONFLICT WITH CERTIFICATE OF INCORPORATION OR WITH DECLARATION . . . . .	10
Section 11.03. NO WAIVER FOR FAILURE TO ENFORCE . . . . .	10
Section 11.04. GENDER . . . . .	10
Section 11.05. CAPTIONS . . . . .	10
Section 11.06. SEVERABILITY . . . . .	11

**BY-LAWS**  
**OF**  
**SAWMILL RUN PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE I**  
**NAME AND LOCATION**

**Section 1.01. NAME AND LOCATION:** The name of the corporation is Sawmill Run Property Owners' Association, Inc. hereinafter referred to as the *Association*. The principal office of the corporation shall be located in the Town of South Valley, County of Cattaraugus and State of New York.

**ARTICLE II**  
**DEFINITIONS**

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

**Section 2.01. ASSESSMENTS:** Annual assessments as provided in the Declaration (as defined in Section 2.02 below).

**Section 2.02. DECLARATION:** The document entitled *Declaration of Covenants and Restrictions - Sawmill Run Subdivision, Phase 2* as it may from time to time be supplemented or amended in the manner provided for in said Declaration.

**Section 2.03. DEVELOPER:** Sylvan Glen, Inc. a Pennsylvania corporation qualified to do business in New York, its successors and/or assigns.

**Section 2.04. LOT:** All lots set forth on a map entitled *Sawmill Run Subdivision Phase 2* as filed in the Cattaraugus County Clerk's Office except Lots 13, 14, 15, and 16.

**Section 2.05. LOT OWNER OR OWNER:** The holder of record title, whether one or more persons or entities, of the fee interest in any Lot.

**Section 2.06. PROPERTY:** All lots together with the road shown on a map entitled *Sawmill Run Subdivision Phase 2* as filed in the Cattaraugus County Clerk's Office.

**ARTICLE III**  
**MEMBERS**

**Section 3.01. MEMBERSHIP IN THE ASSOCIATION:** The members of the Association shall be the Owners of all Lots in the Property. Those who become Lot Owners shall, upon becoming such, automatically be deemed members of the Association and there shall be no other qualification for membership.

**Section 3.02. RIGHT OF DEVELOPER TO ASSIGN:** Developer may, subject to the written consent of the percentage of Lot Owners as set forth in the Declaration, assign its membership in the Association to any person, corporation, association, trust or other entity, and such assignee, and any future assignee of such membership may take successive like assignments. Memberships in the Association shall not otherwise be transferable or assignable.

**Section 3.03. VOTING RIGHTS:** Each Lot Owner shall have one (1) vote except to the extent such right to vote conflicts with the provisions of Sections 4.01 and 5.01 of these By-Laws. Any member who is in violation of the Declaration, 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 nonpayment of Assessments.

**Section 3.04. 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 3.05. CORPORATE LOT OWNERS:** Any votes of a corporate Lot Owner may be cast by an appropriate officer of such corporation.

**Section 3.06. POWERS AND DUTIES OF DIRECTORS:** The powers and duties of the Board of Directors shall be set forth as in the By-Laws of the Association.

**Section 3.07. ABSENTEE BALLOTS AND PROXY VOTING:** On any matter submitted to the Lot Owners for vote, other than the election of Directors of the Association, 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.

## ARTICLE IV MEETINGS OF LOT OWNERS

**Section 4.01. FIRST MEETING:** The first meeting of the Lot Owners shall be held on the second Saturday of the July next following sixty (60) days after the date on which there are Lots subject to this Declaration owned by twelve (12) different owners. Thereafter, there shall be an annual meeting (hereinafter referred to as *Annual Meeting*) of the Lot Owners on the second Saturday in July of each year at the hour of 10:00 o'clock AM or such other date and 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. The first meeting of the Association may be called by the Board of Directors and held at any time earlier than the times provided for herein.

**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 of the Association holding not less than one-fourth (1/4) of the votes entitled to be cast at the meeting.

**Section 4.03. NOTICE OF MEETINGS:** Not less than 10 days or more than 30 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 or printed 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 or purposes for which the meeting is called. Such notice shall be delivered either by mail or by presenting it to the Lot Owner personally. 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 post office address as it appears on the records of the Association. 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, 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.

**Section 4.04. QUORUM:** Except as may otherwise be provided in the Declaration or these By-Laws, the presence in person or by proxy of Lot Owners having one-tenth (1/10) 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 can not 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 seven (7) days 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 (1/2) 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 of 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 the Lot Owners having the percentage of voting power required to take such action if it had been taken at a meeting. Such writings shall set forth the action so taken and shall be filed with the Secretary of the Association. A copy of such action when so approved shall be mailed promptly to all Lot Owners.

**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) Reading of minutes of preceding meeting;
- (4) Reports of officers;
- (5) Reports of committees;

- (6) Election of Directors;
- (7) Unfinished and/or old business;
- (8) New business; and
- (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 three (3) persons, initially designated by the Developer. Any such appointed member shall serve until his replacement is named by the Developer or at the first meeting of the Association. The ability of the Developer to name Directors shall terminate upon the first meeting of the Association. All Directors elected by members of the corporation shall be either (i) Lot Owners, (ii) spouses of Lot Owners, (iii) mortgagees of Lots, (iv) members of employees of a partnership Lot Owner or mortgagee or (v) officers, directors, shareholders, employees or agents of a corporate Lot Owner or mortgagee.

**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 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 of Lot Owners. 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:** Except for members of the Board of Directors initially appointed by Developer, who shall serve until the first meeting of the Association or until replaced by Developer, whichever occurs first, the term of the office of members of the Board of Directors shall be fixed at three (3) years, except that the Directors elected at the first meeting of the Association shall be for 1, 2, and 3 years each so that a term of each of the three Directors shall end every year. Members of the Board of Directors shall hold office until their successors have been elected. Tie votes shall be decided by a runoff election unless all parties tying agree to a draw 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; and
- c. contain space for a write-in for each vacancy.

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

**Section 5.04. VACANCIES:** 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 OF MEMBERS OF BOARD OF DIRECTORS:** 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 not less than a majority of the Lot Owners or without cause by the affirmative vote not less than two-thirds (2/3) of the Lot Owners 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 Owners shall be given an opportunity to be heard at the meeting. Members of the Board of Directors appointed by Developer may be removed without cause only by the Developer, and thereafter replaced by Developer. In addition, the other Directors may, by the affirmative vote of not less than two-thirds (2/3) of such 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, (ii) or from 50% or more of the regularly scheduled meetings of the Board of Directors in any scheduled year, or (iii) 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 his actual expenses incurred in the performance of his duties. A Director who serves the Association in any other capacity, however, may receive compensation therefor.

**Section 5.07. REGULAR MEETINGS:** Regular meetings of the Board of Directors shall be held quarterly 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.

**Section 5.08. 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 Directors. 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 a 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. Neither the business to be transacted at, nor the purpose of, any Special Meeting, need be specific in the notice or waiver of notice of such meeting, unless specifically required by law, by the Certificate of Incorporation of the Association or by these By-Laws.

**Section 5.09. QUORUM AND VOTING:** Unless otherwise provided in the Declaration, a majority of the entire Board of Directors 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 5.10. INFORMAL ACTION BY DIRECTORS:** Any action 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 be filed with the minutes of proceedings of the Board or committee.



**Section 5.11. 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) Maintain, repair and replace, as necessary, all properties and facilities owned by the Association or for which the Association has maintenance responsibilities under the Declaration;
- (b) Determine and levy the Assessments as provided for in the Declaration;
- (c) Collect, use and expend the Assessments and charges collected for the maintenance, care and preservation and operation of the property of the Association and all property for which the Association has maintenance responsibilities under the Declaration;
- (d) To the extent it deems the same necessary and reasonable, procure and maintain (i) adequate liability insurance covering the Association, its directors, officers, agents and employees, (ii) adequate hazard insurance on such of the Association's real and personal properties and (iii) any other insurance, e.g. officers' and directors' liability insurance, workers' compensation insurance, a fidelity bond covering those handling club funds and "umbrella" catastrophe coverage;
- (e) Subject to the provisions of the Declaration, repair, restore or alter the properties of the Association (or properties for which the Association has maintenance responsibilities under the Declaration) after damage or destruction;
- (f) Adopt and publish rules and regulations governing the use of the properties owned by the Association.
- (g) 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 of any rules or regulations of the Association;
- (h) Pay all taxes owing by the Association, and file tax returns;
- (i) Suspend the voting rights of a Lot Owner and/or the rights of a Lot Owner to enjoy those properties owned by the Association, after notice and hearing, for a period not to exceed 30 days for infractions of published rules or regulations, provided that in no event shall the Board of Directors suspend the voting rights of a Lot Owner for nonpayment of assessments;
- (j) Declare the office of a member of the Board of Directors to be vacant in the event such Director shall be absent from three (3) consecutive meetings of the Board of Directors;
- (k) Keep a complete record of the actions of the Board of Directors 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 one-fifth (1/5) of the Lot Owners entitled to vote;
- (l) Issue, or cause to be issued, upon demand by any person an "Assessment Certificate" as provided in the Declaration, setting forth the status of payment of Assessments for any Lot;

- (m) 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;
- (n) Enter into contracts;
- (o) Borrow money as permitted in the Declaration; and
- (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 (who shall be a member of the Board of Directors), 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. 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. The President, but no other officer, must be a member of the Board of Directors.

**Section 6.02. ELECTION AND APPOINTMENT OF OFFICERS:** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each Board of Directors and shall hold office at the pleasure of the Board of Directors.

**Section 6.03. TERM AND VACANCIES:** Each officer shall hold office until his or her successor shall have been duly elected, 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 officer 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, shall, if there is no Chairman of the Board, preside at all meetings 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:** Any Vice President shall be capable of performing all of the duties of the President. He or she may sign, in the name of the Association any and all contracts or other instruments authorized by the Board, and shall perform such other duties and functions as may be assigned to him or her by the President or the Board.

**Section 6.07. SECRETARY:** The Secretary shall cause notices of all meetings to be served as prescribed in these By-Laws, 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 the custody of all monies and securities of the Association and shall keep or cause to be kept regular books and records. He or she shall account to the President and the Board, whenever they may require it, with respect to all of his or her transactions as Treasurer and of the financial condition of the Association, and shall perform all other duties that are assigned to him or her by the President or the Board.

**Section 6.09. OTHER OFFICERS:** Such other officers as the Board may appoint shall perform such duties and have such authority as the Board may determine.

## 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.

**Section 7.02. COMMITTEES OF MEMBERS:** In addition to the Nominating Committee (see Section 5.02 above), the Association shall have such other committees as the Board of Directors shall deem desirable. Each committee shall (i) consist of a chairman and two (2) or more members and (ii) include a member of the Board of Directors, except that the Nominating Committee need not include a member of the Board of Directors. The Nominating Committee shall have the duties and functions described for it in these By-Laws. The other committees shall have such duties and functions as are provided for them from time to time by the Board of Directors of the Association.

**Section 7.03. RULES:** 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..

## ARTICLE VIII FINANCES AND RECORD KEEPING

**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 countersigned 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 12 calendar months ending December 31 of each year, unless otherwise provided by the Board of Directors.

**Section 8.03. ANNUAL REPORT:** There shall be a full and correct statement (audit or review) of the financial affairs of the Association including a balance sheet and a financial statement of operation for the preceding fiscal year. Such report shall be distributed to all Lot Owners and to all mortgagees of Lots who have requested the same, promptly after the end of the fiscal year.

**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 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 and other charges, if any, against such Lot, the dates when installments of Assessments or charges were due, the amounts paid thereon, and the balance remaining unpaid.

**Section 8.05. BOOKS AND RECORDS TO BE AVAILABLE TO LOT OWNERS:** 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.

**Section 8.06. SEPARATE ACCOUNT FOR CAPITAL RESERVE FUNDS:** Any funds of the Association collected or designated as reserves for the replacement of capital items shall 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 (e.g. reserves for noncapital items) or otherwise.

## ARTICLE IX CORPORATE SEAL OPTIONAL

**Section 9.01. 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 X AMENDMENTS

**Section 10.01. ALTERATION, REPEAL OR AMENDMENT:** These By-Laws may be modified, altered, repealed, amended or added to at any regular or special meeting of the 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 mortgagees as listed on the records of the Association, not less than 10 nor more than 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 date or initial date for the canvass of the vote thereon, the Association has not received written notification of opposition to the change from mortgagees of more than 50% of Lots on which there are mortgages as shown on the records of the Association.

Notwithstanding the above, (i) so long as Developer holds title to any Lot, Sections 3.01, 3.02, 3.03, 5.01, 5.03, 5.04, 5.05 and 10.01 shall not be amended without the consent of Developer, and (ii) Developer during the time it shall own any Lot may make amendments to these By-Laws to correct omissions or errors provided such amendments shall not adversely modify substantial rights of any Lot Owner without such Lot Owner's written consent.

**Section 10.02. FORM OF AMENDMENT PROPOSALS:** No By-Laws shall be modified, altered, amended or added to by reference of its title or number only. Proposals to amend, amended or added to, new words shall be added to 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 undertaking 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 10.03. NONMATERIAL ERRORS OR OMISSIONS:** Nonmaterial errors or omissions in the By-Law amendment process shall not invalidate an otherwise properly promulgated amendment.

**Section 10.04. EFFECTIVE DATE OF AMENDMENT:** An amendment to these By-Laws shall be effective in accordance with the terms of its adoption.

## ARTICLE XI MISCELLANEOUS

**Section 11.01. NOTICES:** All notices hereunder shall be in writing and, if not personally delivered, sent by mail by depositing same in a post office or letter box in a postpaid sealed wrapper, addressed, if to go to the Board of Directors, at the office of the Board of Directors, and if to go to a Lot Owner or to a Lot mortgagee, to the address of such Owner or mortgagee at such address as appears on the books of the Association. All notices shall be deemed to have been given when mailed, 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 11.02. CONFLICT WITH CERTIFICATE OF INCORPORATION OR WITH DECLARATION:** In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**Section 11.03. 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 11.04. 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 11.05. 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 11.06. 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.