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**RESTATED  
BY-LAWS  
OF  
HEARTLAND ESTATES**

**DATED:** March 7, 2018

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**BY-LAWS  
OF  
HEARTLAND ESTATES**

**ARTICLE I  
NAME AND LOCATION**

These Restated By-Laws, approved this 7th day of March, 2018, by the Board of Directors of Heartland Estates Homeowners Association, Inc. representing a majority of a quorum of the Board at a meeting held on March 7, 2018.

**WITNESSETH**

Whereas, the Board of Directors wish to amend and restate the By-Laws of Heartland Estates Homeowners Association, Inc.; and

Whereas, pursuant to the By-Laws, Article XIII, a majority of the Board of Directors present in person or by proxy, at a meeting at which a quorum was obtained, have consented to this amendment; and

Now therefore, the Board of Directors, amend and restate the By-Laws as hereinafter set forth.

Section 1.01. Name and Location. The name of the corporation is the Heartland Estates Homeowners Association, Inc. hereinafter referred to as the "Association". The principal office of the corporation shall be located in the Village of Webster, Monroe County, New York, but meetings of Members and Directors may be held at such other places within Monroe County, in the State of New York, as may be designated by the Board of Directors.

**ARTICLE II  
DEFINITIONS**

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

Section 2.01. "Association" shall mean and refer to the Heartland Estates Homeowners Association, Inc.

Section 2.02. "Association Property" shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by the Association.

Section 2.03. "Building" shall mean and refer to the buildings in Heartland Estates containing 41 Units.

Section 2.04. "Common Utilities" shall mean and refer to any common sanitary sewer line and common storm sewer line servicing Heartland Estates.

Section 2.05. “Declaration” shall mean and refer to this document of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens - Heartland Estates (The Heartland Estates Declaration) as it may from time to time be supplemented, extended or amended in the manner provided for herein.

Section 2.06. “Institutional First Mortgage Lender” shall mean and refer to a bank, savings and loan association, life insurance company, pension trust, trust company, the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”) or any lender approved by Fannie Mae or Freddie Mac which holds a first mortgage on a Unit.

Section 2.07. “Lot” shall mean and refer to any portion of the Property (with the exception of Association Property as heretofore defined) under the scope of the Declaration and (i) identified as a separate parcel on the tax records of the Village of Webster; and (ii) shown as a separate lot upon any recorded or filed subdivision map, upon which a Unit has been constructed.

Section 2.08. “Member” shall mean and refer to those persons entitled to membership as provided in the Declaration. It shall be appurtenant to and may not be separated from lot ownership.

Section 2.09. “Owner” shall mean and refer to the holder of record title, whether one or more persons or entities, in any Lot or Unit.

Section 2.10. “Property” shall mean and refer to all properties as are subject to the Declaration.

Section 2.11. “Recording Office” shall mean and refer to the official office for the recording of land documents in the County of Monroe.

Section 2.12. “Unit” Each of 41 single family residences as constructed within one of the Buildings, including the garage.

### **ARTICLE III OWNERS**

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

Section 3.02. Voting Rights. Each Owner shall have only one (1) vote. Any Owner 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. Voting rights may be assigned as permitted by the Declaration. Absentee ballots and proxy voting shall be as permitted in Section 3.06 below.

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 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 Members 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 Members. Any votes of a corporate Owner may be cast by an appropriate officer of such corporation.

Section 3.05. Joint or Common Ownership. If a Unit 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 have one vote for their Unit.

Section 3.06. Absentee Ballots and Proxy Voting. Owners unable to attend a meeting of the Members, shall be entitled to file an absentee ballot 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 OWNERS**

Section 4.01. Annual Meeting. There shall be an annual meeting of the Owners held in the Fall of each year or at such other date and time and at such place convenient to a majority of the Owners as shall be designated by the Board of Directors, which meeting shall be held in Monroe County, and for the purpose of electing Directors and for the transaction of such other business as may come before the meeting.

Section 4.02. Special Meetings. Special meetings of the Owners may be called at any time by the President or by the Board of Directors, or at the request in writing of twelve (12) Owners.

Section 4.03. Notice of Meetings. Written notice of each meeting of the Members shall be given by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 30 days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in case of a special meeting, the purpose of the meeting.

Section 4.04. Quorum. Except as may otherwise be provided in these By-Laws, the presence in person or by proxy of Owners having one-half (1/2) of total eligible votes of all Owners shall constitute a quorum at any meeting of Owners. If any meeting of Owners cannot

be held because a quorum is not present, a majority of the Owners who are present at such meeting, either in person or by proxy, may, without notice other than announcement to those physically present, adjourn the meeting to a time not less than 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 Owners present at a meeting at which a quorum was present shall be the act of the 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 Ownership 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 Owner may be dispensed with if all of those eligible to vote shall consent in writing to such action being taken.

Section 4.06. Order of Business at Annual Meeting. The General Agenda of the Annual Meetings of Owners of the Association shall be published with the Meeting Notice, and a detailed Agenda will be provided at the meeting itself.

## **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 no less than three (3) persons or more than five (5) persons. All Directors shall be: (i) Owners; (ii) spouses or domestic partners of Owners, (iii) members or employees of a partnership Owner; or (iv) officers, directors, shareholders, employees or agents of a corporate Owner. Only one person per Unit may serve at any one time.

Section 5.02. Nomination. A nominating committee shall be formed consisting of one representative of the Board of Directors and two Owners, who will accept nominations for any position(s) open on the Board.

Section 5.03. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted. Tie votes shall be decided by drawing of lots.

Voting shall be by secret written ballot which shall:

- (a) set forth the number of vacancies to be filled;



- (b) state the names of those candidates nominated; and
- (c) contain space for a write-in for each vacancy.

Section 5.04. Term. At each annual meeting, the Owners shall elect the number of directors commensurate with the number of expiring director terms, for a term of three years. The term shall begin at the beginning of the Organizational Meeting following the election and shall end at the beginning of the Organizational Meeting following the next election. Thereafter, in any three-year cycle, two (2) Board Members will be elected the first year, two (2) Board Members will be elected the second year, and one (1) Board Member will be elected the third year.

Section 5.05. Vacancies. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 5.06. Removal of Members of Board of Directors. At any regular or special meeting of Members, any one or more of the Members of the Board of Directors elected by the Members may be removed with or without cause by the affirmative vote of not less than a majority of the Members and a successor may then and there or thereafter be elected by the Members to fill the vacancy thus created for the unexpired term of the predecessor. Any Member of the Board of Directors whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

Section 5.07. 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 duties as a Director. A Director who serves the Association in any other capacity, however, may receive compensation.

Section 5.08. Organizational Meeting. After the annual election, the newly constituted Board of Directors shall meet. The purpose will be the transition of Association business to include all financial transactions, a review of all outstanding contracts and updated status reports from all Association committees. At this time the new board will also elect its officers. The President of the preceding Board will preside until the new officers are elected.

Section 5.09. Regular Meetings. Regular monthly meetings of the Board of Directors shall be held not less than nine (9) times a year 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 and on at least seven (7) days' notice to each Director. An Owner may attend a Board meeting, but not executive session, by notifying the management office in advance. If there is a particular subject the Owner wishes to have addressed, he should state the area of concern in the notice of desire to attend the meeting. If an Owner wishes to address the Board, he will be invited to do so. An Owner in attendance at a regular board meeting may not participate in the

business and discussion of the Board on any topic other than the one for which the Owner submitted a prior request to address the Board.

Section 5.10. Special Meetings. Special meetings of the Board of Directors may be called at any time at the request of the President or any two (2) Directors after not less than two (2) days' notice to each Director. 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 specified 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 5.11. Quorum and Voting. Unless otherwise provided in the Declaration, 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 these 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. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting, provided a written consent to such action is signed by at least 2/3 of the members of the Board of Directors, and provided further that such written consent is filed with the minutes of proceedings of the Board.

Section 5.13. 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, repair and/or replacement responsibilities as provided in the Declaration;
- (b) Determine and levy the maintenance assessments, special assessments and other charges as provided for in the Declaration, with recommendations from the finance committee or the Board;
- (c) Send written notice of each assessment to every Owner subject thereto at least thirty days in advance of each assessment period;
- (d) Collect, use and expend the assessments and charges collected for the maintenance, care and preservation and operation of the property of the Association, and the

maintenance, care and preservation of the exteriors of the Units and other improvements to the Property which the Association is obligated to maintain;

(e) To the extent it deems the same necessary and reasonable, procure and maintain adequate liability insurance covering the Association, its directors, officers, agents and employees and procure and maintain adequate hazard insurance on such of the Association's real and personal properties and the Units;

(f) Subject to the provisions of the Declaration, repair, restore or alter the properties of the Association after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;

(g) Adopt and publish rules and regulations governing the use of the Property, and the personal conduct of the Owners and other guests thereon, and establish penalties for infractions thereof;

(h) Collect delinquent assessments by suit or otherwise, to enjoin, or seek damages from or impose penalties on Owners for violations of the provisions of the Declaration or of any rules or regulations of the Association;

(i) Pay all taxes owing by the Association, and filing tax returns;

(j) At the Board's discretion declare the office of a member of the Board of Directors to be vacant in accordance with Section 5.06 above;

(k) Keep a complete record of the actions of the Board of Directors.;

(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) Establish reserves or other segregations or allocations of Association funds for the repair and replacement of capital items and other expenses not anticipated to be incurred annually, including any debt incurred by the Association;

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

(o) Enter into contracts;

(p) Borrow money as permitted by the Declaration;

(q) Employ a managing agent and such other persons or firms to perform such duties and services as the Board of Directors may authorize.

(r) Suspend the voting rights for a period not to exceed 60 days, of an Owner after notice and a hearing, for infractions of published rules or regulations, or during any period in which such Owner is in default in the payment of any assessment levied by the Association.

Section 5.14. Managing Agent and Manager. The Board of Directors may employ for the Association a managing agent and/or a manager at a compensation established by the Board of Directors, to perform such services and duties as the Board of Directors shall 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. 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.

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.

Section 6.03. Term and Vacancies. Each elective 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 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 Members and Directors, and shall perform such other duties and functions as may be assigned to him or her by the Board of Directors. He or she may sign, in the name of the Association, any and all contracts or other instruments authorized by the Board of Directors 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 of Directors, and shall perform such other

duties and functions as may be assigned to him or her by the President or by the Board of Directors.

Section 6.07. Secretary. The Secretary shall keep the minutes of all meetings of the Owners and of the Board of Directors; shall record all votes and the minutes of all proceedings in a book to be kept for that purpose; shall have charge of such books and papers as the Board of Directors may direct; shall give or cause to be given, notice of all meetings of Owners and all special meetings of the Board of Directors; and shall, in general, perform all the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York. The Secretary shall keep a current list of Standing Committees, their members and residence addresses.

Section 6.08. Treasurer. The Treasurer shall be responsible and accountable of all monies and for securities of the Association and shall keep or cause to be kept regular books and records; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. He or she shall account to the President and to the Board of Directors, 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 by the Board of Directors.

Section 6.09. Other Officers. Such other officers as the Board of Directors may appoint shall perform such duties and have such authority as the Board of Directors may determine.

Section 6.10. Delegation of 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 of Directors 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 of Directors 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. Fidelity Bonds. The Board of Directors shall require that all officers, and employees of the Association or any other individuals' handling or responsible for Association funds have adequate fidelity bonds. The premiums on such bonds, other than those of a qualified management company carrying its own bonds, shall be paid by the Association and shall be a common expense.

Section 6.12. Internet Accessibility. All members of the Board of Directors shall have the ability to connect to the internet for the purpose of sending and receiving email communication from the Property Manager, or other Board Members, and any such other communication as shall be deemed necessary to discharge their duties as Board members

including voting on contracts or other motions. Any such actions shall be recorded in the minutes of the next Board Meeting.

## **ARTICLE VII COMMITTEES**

Section 7.01. Committee 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.

All actions by 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 Owners. The committees of the Association shall be the Nominating Committee, and such other committees as the Board of Directors shall deem desirable. Each committee shall consist of a chairman and two (2) or more Owners and shall include a member of the Board of Directors. The Nominating Committee shall be structured as specified by Section 5.02. The Architectural Standards Committee (if any) shall have the duties and functions described for such committee in the Declaration.

Section 7.03. Rules and Records. Each committee must operate in accordance with the rules adopted by the Board of Directors regarding its purpose and action. Each committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors as required.

## **ARTICLE VIII FINANCE 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 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. Depository. The depository of the Association shall be such bank or banks or such government insured (bond) funds as shall be designated from time to time by the Board of Directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from such funds shall only be by checks signed by such persons as are authorized by the Board or by electronic funds transfer as authorized by the Board.

Section 8.03. Fiscal Year. The fiscal year of the Association shall be the 12 months ending December 31 of each year, unless otherwise provided by the Board of Directors.

Section 8.04. 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 a public or certified public accountant and including a certificate signed by a public or certified public accountant to the effect that the financial statement presents fairly the financial position of the Association and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as specified therein. The statement of the financial affairs of the Association shall be prepared in accordance with the then current guidelines for “common interest realty associations” promulgated by the American Institute of Certified Public Accountants or any successor organization. Such audit shall be distributed to all Owners and to all mortgagees of Units who have requested the same, within 90 days after the end of each fiscal year.

Section 8.05. 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 Members, 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 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.

Section 8.06. 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.

Section 8.07. Books, Records and Legal Documents. The Board of Directors shall make available for inspection upon reasonable notice and during normal business hours, to Owners, 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 Owners, shall pay for out of Association funds as common expenses, the following:

(a) Utilities and Related Facilities. The cost of maintaining and/or repairing any water and sewer lines for which they are obligated to maintain.

(b) Insurance. Premiums for all insurance obtained as required or permitted by the Declaration.

(c) Wages and Fees for Services. The 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 and Building Exteriors. The cost of lawn cutting, landscaping, snow removal, maintenance, repair, replacement and rehabilitation of the property of the Association and the maintenance, repair and replacement of the exterior of the buildings containing the Units as required by the Declaration 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 improvement on a Lot if such maintenance or repair is necessary, in the discretion of the Board of Directors, for public safety or to protect the Association Property, and the Owner of such Lot has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity thereof delivered by the Association to such Owner; provided that the Association shall levy an assessment against such Owner for the cost of such maintenance or repair.

(f) Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Association or its property. Where one or more 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 Owner or Owners.

(g) Additional Expenses. The cost of any other materials, supplies, 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, these By-Laws, or by law or which in the opinion of the Board of Directors shall be necessary or proper for the maintenance and operation of the Association Property.



Section 9.02. Special Services. The Association may arrange for the providing of any special services and facilities for the benefit of such Owners and/or occupants of Units as may desire to pay for the same. Fees for such special services and facilities shall be determined by the Board of Directors and may be charged directly to the Members receiving such services, or paid from the Association's general funds and levied as a Special Assessment against the Members receiving such services.

Section 9.03. 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.

## **ARTICLE X CORPORATE SEAL OPTIONAL**

Section 10.01. 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 XI AMENDMENTS**

Section 11.01. Alteration, Repeal or Amendment. These By-Laws may be modified, altered, repealed, amended or added to at any regular or special meeting of the 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 Owners and mortgagees as listed on the records of the Association, not less than 10 nor more than 60 days prior to the date or initial date set for the canvass of the vote thereon; and

(b) 67% or more of the 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 51% or more of Lots on which there are mortgages as shown on the records of the Association.

Section 11.02. Nonmaterial Errors or Omissions. Nonmaterial errors or omissions in the By-Law amendment process shall not invalidate an otherwise properly promulgated amendment. The Board of Directors may amend these By-Laws to correct omissions or errors, which amendment shall not substantially or adversely modify rights of any Members without such Member's written consent.

Section 11.03. Effective Date of Amendment. An amendment to these By-Laws shall be effective in accordance with the terms of its adoption.

## **ARTICLE XII MISCELLANEOUS**

Section 12.01. 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.

Section 12.02. 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 12.03. 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 12.04. 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 12.05. 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 12.06. Severability. Should any part of these By-Laws be deemed void or become unenforceable at law, the validity, enforceability or effect of the balance of these By-Laws shall not be impaired or affected in any manner.