

BLUE HERON PINES HOMEOWNERS ASSOCIATION BY-LAWS

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BLUE HERON PINES HOMEOWNERS ASSOCIATION BY-LAWS

ARTICLE I – INTRODUCTION

1.1 Nature of By-Laws. These By-laws are intended to govern the administration of Blue Heron Pines Homeowner's Association, Inc., ("Association" or "Homeowner's Association"), a non-profit corporation organized under Title 15A of the Statutes of New Jersey, and to provide for the management, administration, utilization and maintenance of the property described in the Declaration of Covenants, Conditions and Restrictions for Blue Heron Pines Homeowner's Association, Inc.

1.2 Definitions. For purposes of these By-Laws, all definitions set forth in the Declaration are incorporated herein and made a part hereof, unless the context clearly indicates otherwise.

1.3 Seal. The Homeowner's Association shall have a seal bearing the words "Blue Heron Pines Homeowner's Association, Inc.

1.4 Principal Office. The principal office of the Association shall be 620 West Country Club Drive, Egg Harbor City, NJ 08215.

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ARTICLE II – MEMBERSHIP

2.1 Membership. Membership in the Association shall be comprised of all Homeowners; provided however, that any person who holds an interest in a home merely as security for the performance of an obligation shall not be a Member of the Association.

Tenant's rights shall be limited to the use and enjoyment of a Homeowner's Common Property subject to the provisions of these By-Laws, any Rules and Regulations promulgated by the Board and the Declaration. However, no tenant shall have any voting rights in the Association.

2.2 Change of Membership. Change of Membership shall be accomplished by recording in the Atlantic County Clerk's Office a deed transferring title to the home.

2.3 Voting Rights. Each home shall have one (1) vote in the affairs of the Association. No fractional votes shall be recognized; there shall be a total of votes of the Association based on the number of homes which is 288.

2.4 Interest in the Common Property. Each Homeowner shall have an ownership interest in the Association Common Property equal to and in proportion with the number of votes, which the homeowner holds pursuant to Section 2.3. Each Homeowner pursuant to these By-Laws shall be privileged to use and enjoy the Association Common Property subject to the Declaration, these By-Laws and the right of the Association to promulgate Rules and Regulations governing such use and enjoyment, and subject further to the provisions of Section 2.5 of this Article.

2.5 Suspension of Rights. The rights of any Member may be suspended by the Board for nonpayment of the monthly assessment; but upon payment of assessment, rights and privileges shall be automatically restored. The Board has adopted and published Rules and Regulations governing the use of the Common Property and the personal conduct of persons thereon. The Board may, in its discretion, suspend the rights and privileges of any such person for violation for a period not to exceed thirty (30) days for any single violation; but if the violation is of a

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continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is abated.

ARTICLE III – MEETINGS OF MEMBERS

3.1 Place of Meetings. All meetings of the Members of the Homeowners Association shall be held at its principal office or at such other place convenient to the Homeowners as may be designated by the Board with an annual posting of Open Meetings. At least once each year within seven (7) days following the annual meeting of the association, the governing body shall post and maintain posted throughout the year notice of meetings in those locations set forth above.

3.2 Annual Meetings. All regular annual meetings of the Members of the Homeowners Association shall be held during the month of January. At each annual meeting subject to the provisions of Article III, the election of Directors shall take place.

3.3 Special Meetings. Special meetings of Homeowners shall be called by the President when required by Article III, Section 3 of these By-Laws, or may be called by the President whenever the President deems such a meeting advisable, or shall be called by the Secretary when so ordered by the Board, or upon the written request of Homeowners representing not less than twenty percent (20%) of all the votes entitled to be cast at such meeting. Such request shall state the purpose(s) of such meeting and the matter(s) proposed to be acted upon. Unless Homeowners representing at least fifty percent (50%) of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Homeowners held during the preceding twelve months, which determination shall be made in the sole and absolute discretion of the Board.

3.4 Notice of Meeting. Except as otherwise provided by law or these By-Laws, notice of each meeting of Members, whether annual or special, shall be given not less than ten (10) days, nor more than ninety (90) days before the day on which the meeting is to be held, to each Member entitled to vote at such Member's last known address, by delivering a written or printed notice thereof to such address, or by mailing such notice, postage prepaid. Notice shall also be posted in the Homeowners Clubhouse and on the Homeowners website. Every such notice shall state the time and place of the meeting and shall state briefly the purpose(s) thereof. Notice of any

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adjourned meeting of the Homeowners shall not be required to be given except when otherwise expressly required by law.

3.5 Quorum. At each meeting of the Homeowners, Homeowners in good standing shall constitute a quorum of 87 of the 288 existing votes present in person, or by proxy, as provided in this Article, shall constitute a quorum for the transaction of business except where otherwise provided by law. In the absence of a quorum, the persons holding votes present in person or by proxy and entitled to vote, by majority vote, may adjourn the meeting from time to time, until a quorum shall be present or represented. At any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting originally called.

ARTICLE III – MEETINGS OF MEMBERS (continued)

3.6 Organization. At each meeting of the Homeowners Association, the President, or in the President's absence, the Vice President, or in the absence of both of them, a person chosen by the remaining Directors shall act as chairperson, and the Secretary, or in the Secretary's absence, a person whom the chairperson shall appoint shall act as Secretary of the meeting.

3.7 Elections. The election process will be administered by an Election Committee selected annually by the Board of Directors.

a) A Homeowner may only be a candidate for election to the Board, or once elected, continue to serve as a member of the Board, if he or she is a Member in good standing and is not otherwise disqualified under the provisions of the By-Laws.

b) All candidates for election to the Board shall agree to become familiar with the Governing Documents, By-Laws, Rules and Regulations so that he or she can use them to assist the Board in the procedural and substantive decision making process.

c) All Board members shall agree to a Code of Ethics and Rules of Conduct, and shall notify fellow board members in the event of or appearance of a Conflict of Interest.

d) All Homeowners in good standing may vote by ballot as prescribed in the By-Laws.

e) Ballots and one pre-addressed envelope stamped with the word "BALLOT" must be mailed by First Class Mail or Delivered by the Association to every Member not

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less than thirty (30) days prior to the deadline for voting. The balloting material shall include the following:

- 1) The ballot shall be signed by the homeowner. The homeowner shall print his name and address on the ballot. The ballot will be returned in the pre-addressed envelope labeled "BALLOT".
- 2) The ballot envelope shall be addressed to the Election Committee. The envelope may be mailed to the Election Committee or hand delivered to a location specified by the Election Committee.
- 3) Homeowners may also hand deliver the Ballot envelope to the annual meeting or complete a ballot at the meeting; provided only those ballots which were delivered to the Election Committee prior to the polls closing shall be counted.

ARTICLE III – MEETINGS OF MEMBERS (continued)

f) The first ballot received for any home shall be the ballot which is counted. Any subsequent ballots for the same home, which are received shall be deemed invalid and shall be discarded. Ballots may not be revoked once they are submitted to the Election Committee.

g) The sealed ballots at all times shall be in the custody of the Election Committee or at a location designated by them until after tabulation of the vote, at which time custody can then be transferred to the Association. After tabulation, election ballots shall be stored by the Association in a secure place for no less than one (1) year after the date of the election.

h) If a Homeowner loses his or her ballot, they may request another ballot packet from the Election Committee. The Election Committee shall maintain a record of each such request.

i) Association funds shall not be used for campaign purposes in connection with any Association election, except to the extent necessary to comply with the duties of the Association imposed by the governing documents. The Association can use its funds to prepare and review appropriate ballots as well as the copying, printing and

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mailing costs necessary to provide the ballots and election materials to the Homeowners consistent with the Association's governing documents. The Association may use funds to distribute, for election of the Board of Directors, a biographical, experience, qualifications and election platform description of the nominees within said election materials.

3.8 Judges. If at any meeting of the Homeowners a vote by ballot shall be taken other than for directors, the chairperson of such meeting shall appoint at least two persons to act as judges with respect to the ballots. Each judge so appointed shall first subscribe to an oath to execute faithfully the duties of a judge with strict impartiality and according to the best of her or his ability. Such judges shall decide any question of the qualifications of voters, shall report the number of votes represented at the meeting and entitled to vote on such question, shall conduct and accept the votes, shall ascertain and report the number of votes for and against the questions. Reports of judges shall be in writing and subscribed to and delivered by them to the Secretary of the meeting. The judges shall be Members of the Homeowners Association and any Director of the Homeowners Association may be a judge on any question.

3.9 A Member in Good Standing. A Member shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Homeowners Association if, and only if, such Member shall have fully paid all installments due for assessments, at least three (3) days prior to the date fixed for such meeting.

ARTICLE III – MEETINGS OF MEMBERS (continued)

3.10 Conduct of the Meeting. The order of business at the annual meeting of the Homeowners or at any special meeting, as far as practicable, shall be:

- (a) Calling of the roll and proof of quorum.
- (b) Proof of notice of meeting and waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Appointment of judges, if appropriate.
- (e) Election of Directors, if appropriate.
- (f) Receiving reports of officers.

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(g) Receiving reports of committees.

(h) Old business.

(i) New business.

(j) Adjournment.

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ARTICLE IV – BOARD OF DIRECTORS

4.1 Express and Implied Powers and Duties. The property, affairs and business of the Homeowners Association shall be managed by the Board of Directors, which shall have all those powers granted to it by the Certificate, the Declaration, these By-Laws, and by law.

4.2 Number and Control of the Homeowners Association. The affairs of the Homeowners Association shall be governed by the Board of Directors consisting of five (5) Homeowners serving two (2) year terms. Board Members A, B and C will be elected in even years and Board Members D and E will be elected in odd years. Membership in good standing shall be a qualification for an appointee or nominee to a directorship, as well as election thereto. Co-owners holding a Membership in good standing may designate only one of them to stand for election or serve as a Director. Any Director elected by Homeowners who conveys title to his or her Home is automatically disqualified as a Director effective on the date of said conveyance. The Board shall consist of five (5) persons.

4.3 Removal of Members of the Board. At any duly held regular or special meeting of the Members, any one or more Directors may be removed with or without cause by a majority of the votes present provided a quorum is present and a successor may then and there or thereafter be elected or appointed by a majority of the remaining Directors to fill the vacancy thus created, or by the Homeowners if there be no Directors remaining. Each Director so appointed or elected shall be a Director for the remainder for the term of the removed Director(s) and until a successor is duly elected and qualified. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

4.4 Vacancies. Vacancies on the Board caused by any reasons other than the removal of a Director by a vote of the Homeowners shall be filled by a vote of a majority of the remaining Directors, at a special meeting of the Board held for that purpose, promptly after the occurrence of any such vacancy. Each person so elected shall be a Director for the remainder of the term of the Director whose term he or she is filling and until a successor shall have been elected and qualified.

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ARTICLE IV – BOARD OF DIRECTORS (continued)

4.5 Meeting of the Board; Notices; Waiver of Notice. The first annual meeting of the Homeowners shall be held within fourteen (14) days thereafter at such time and place as shall be fixed by a majority of the Directors at the annual meeting of the Homeowners and no notice shall be necessary. Thereafter, regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four regular monthly meetings shall be held each year. Notice of regular meetings of the Board shall be given to each Director by telephone, email or fax at least seven (7) business days prior to the day of the meeting. Notice of the four regular monthly meetings shall be given to all Homeowners by posting a schedule thereof at the Blue Heron Pines Homeowners Clubhouse and the homeowners website during the month of January of each calendar year. Special meetings of the Board may be called by the President on three (3) business days notice to each Director, given by email or fax, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or the Secretary in a like manner and on like notice on the written request of at least three (3) Directors. Any Director, at any time, may waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by a Director at any meeting of the Board shall constitute a waiver of notice by that Director of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

(a) Open Meetings. All meetings of the Association Board of Directors, except conference or working sessions at which no binding votes are to be taken, shall be open to attendance by all Homeowners. Notice, agenda, and minutes of each meeting shall be posted in the homeowner's clubhouse and on the homeowner's website.

(b) Restriction on Open Meetings. Despite (a) above, the Associations Board of Directors may exclude or restrict attendance at those meetings or portions of meetings dealing with the following:

(1) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

(2) Any pending or anticipated litigation or contract negotiations.

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(3) Any matters falling within the attorney client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

(4) Any matter involving the employment, promotion, discipline or dismissal of a specific employee of the Association.

ARTICLE IV – BOARD OF DIRECTORS (continued)

(c) Minutes at Open Meetings. At each meeting required to be open to all unit owners, minutes of the proceedings shall be taken, and copies of those minutes shall be made available to all homeowners before the next open meeting.

4.6. Quorum and Adjourned Meetings. At all meetings of the Board, four (4) Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the majority of those present shall adjourn the meeting to a new date. At any such adjourned meeting at which a quorum is present, any business, which may have been transacted at the original meeting, may be transacted without further notice. The vote of a majority of those present at a Board meeting at which a quorum is present shall be necessary for valid action by the Board.

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ARTICLE V: POWERS AND DUTIES OF BOARD OF DIRECTORS

5.1 Notice Requirements for Open Meetings.

(a) Notice. Adequate notice of any open meeting shall be given to all Homeowners.

(b) Adequate Notice. Adequate notice means written advance notice of at least 48 hours, giving the date, time, location and to the extent known the agenda of any regular, special or rescheduled meeting. Such notice shall accurately state whether formal action may or may not be taken. This notice shall be:

(1) Prominently posted at the Homeowners Club House, and

(2) Posted on the Homeowners Website, and

(3) Filed with the association Secretary or administrative officer responsible for administering the association business office.

5.2 General Powers and Privileges. The Board shall have all those powers granted to it or necessarily implied by law or by the Certificate of Incorporation, these By-Laws or the Declaration, including but not limited to the following:

(a) To employ, for a period not to exceed two (2) years, by contract or otherwise, a manager, managing agent or an independent contractor, and staff to oversee, supervise and carry out the duties as directed by the Board.

(b) To employ any person, firm or corporation to repair and maintain the Homeowners Common Property.

(c) To employ professional counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, architects, engineers, attorneys and accountants; and

(d) To employ or contract for water and sewer, electricity and gas or other forms of utilities, cable for the Homeowners Common Property; and

(e) To adopt, amend, and publish rules and regulations covering the details of the operation and use of the Homeowners common property; and

(f) To secure full performance by Members of all items of maintenance for which they are responsible; and

(g) To arrange for security protection as necessary; and

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ARTICLE V: POWERS AND DUTIES OF BOARD OF DIRECTORS
(continued)**

(h) To enforce obligations of the Members and everything necessary and proper for the sound management of Homeowners Common Property, including the right to bring or defend lawsuits to enforce the Covenants, conditions and restrictions contained in the Declaration, these By-Laws and any Rules and Regulations governing Homeowners Common Property. The Board shall also have the power to levy fines against any Member(s) for violations of any of the foregoing. Collection of fines may be enforced against any Member(s) involved as if the fine were a Common Expense Assessment owed by the particular Member(s), and such fines shall constitute a lien upon a particular Member's Home; and

(i) To borrow and repay monies, giving notes, mortgages or other security upon such term or terms as it deems necessary and subject to prior approval of the homeowners; and

(j) To invest and reinvest monies in interest-bearing accounts or certificates of deposit, sue and be sued; collect interest, prepare, file and pay taxes; make and enter into contracts; enter into leases or concessions for a period not to exceed two (2) years; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and

(k) to grant and obtain easements, licenses and other property rights subject to homeowners approval with respect to the Homeowners Common Property and contiguous lands; and

(l) To create, appoint members to and disband such committees as shall from time to time be deemed appropriate or necessary to aid the Board in the discharge of its duties, functions and powers.

5.3. Duties and Responsibilities. It shall be the affirmative and perpetual obligation and duty of the Board to perform the following:

(a) Will participate in seventy-five percent (75%) of all regular and special meetings; and

(b) To cause the Homeowners Common Property to be maintained according to standards set by the Board and as set forth in the Declaration and these By-Laws; and

(c) To investigate, hire, pay, supervise and discharge the personnel necessary to be employed and provide the equipment and materials necessary to

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properly maintain and operate Homeowners Common Property as contemplated by the Declaration and these By-Laws; and

(d) To cause to be kept a complete record of all its acts and corporate affairs and to present a summary report thereof to the Homeowners at the annual meeting and at any special meeting when requested in writing at least thirty (30) days in advance by Homeowners; and

ARTICLE V: POWERS AND DUTIES OF BOARD OF DIRECTORS (continued)

(e) To make repairs, additions, improvements to or restoration of Homeowners Common Property in accordance with the provisions of these By-Laws and the Declaration after damage or destruction by fire or other casualty; and

(f) To take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises maintained by the Homeowners Association placed thereon by any federal, state, county or municipal authority having jurisdiction there over, and order of the Board of Fire Underwriters or other similar bodies; and

(g) To place and keep in force all insurance coverages required to be maintained by the Homeowners Association, applicable to its property and Homeowners including, but not limited to general liability, all risk and Directors' liability and worker's compensation insurance, flood (in the event any of the Homeowners Common Property is located in a federally designated zone of greater than minimal flood hazard.)

Any insurance maintained by the Board may provide for such deductible amount as the Board may determine reasonable. Despite any other provisions of this subparagraph, the Board shall not be required to obtain or maintain any type or amount of insurance not commonly available in the normal commercial marketplace.

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ARTICLE VI – FISCAL MANAGEMENT

6.1 Common Expense Assessments. The Board shall have the duty to collect from each Homeowner, as "Common Expense Assessments," the proportionate expenses assessed against such Member as provided in the Declaration, the Certificate, and these By-Laws.

6.2 Disbursements. The Board shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Declaration, the Certificate and applicable law.

6.3 Depositories. The depository of the Homeowners Association shall be such a bank or banks as shall be designated from time to time by the Board and in which the monies of the Homeowners Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by two (2) authorized board members.

6.4 Accounts. The receipts and expenditures of the Homeowners Association shall be credited and charged to accounts under the following classifications as the Board shall deem appropriate and in accordance with Generally Accepted Accounting Procedures (GAAP):

(a) Current expenses shall include all expenditures within the year for which the budget is made, including reasonable allowances for contingencies and working funds. Current expenses shall not include expenditures chargeable to reserves. At the end of the year, the unexpended amount remaining in this account applicable to any particular budget shall be applied to reduce the assessments for current expenses for the succeeding year, may be distributed to the current Homeowners in the same manner as assessed, or otherwise be utilized by the Board consistent with the Declaration, By-Laws and N.J.A.C.5:26-8.4.

(b) Reserve for deferred maintenance, which shall include funds for any maintenance items that occur less frequently than annually.

(c) Reserve for replacement, which shall include funds for repair or replacement of the Homeowners Common Property and those portions of the Homeowners Common Property for which repair or replacement is required because of damage, depreciation or obsolescence. The amounts in this account shall be allocated among each of the separate categories of replacement items.

(d) The Board shall not be required to physically segregate the funds held in the above accounts except for reserves for replacement and repair and escrow deposits, if any, which funds must be maintained in separate accounts. The Board may,

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in its sole discretion, maintain the remaining funds in one or more consolidated accounts. As to each consolidated account, the division into the various accounts set forth above need be made only on the records of the Homeowners Association.

ARTICLE VI – FISCAL MANAGEMENT (continued)

6.5 Reserves. The Board shall not be obligated to expend all of the revenues collected in any accounting period and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollected accounts. The amounts assessed and collected for the reserves, shall be kept in one or more interest-bearing savings accounts, or certificates of deposit, and these amounts together with any and all interest thereon, shall not be utilized for any purpose other than the purpose of the reserves, which was contemplated at the time of assessment.

6.6 Notice. The Board shall give thirty (30) days notice to each Homeowner, in writing, and to any Institutional Lender who requires same, of the amount estimated by the Board for Common Expense Assessments for the management and operation of the Homeowners Association for the next ensuing period, directed to the Homeowner at his or her last known address by ordinary mail. In the event the annual Common Expense assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board with thirty (30) days notice. Nothing herein shall serve to prohibit or prevent the Board from imposing a lump sum assessment in the case of any immediate need or emergency which cannot be met by reserve funds earmarked for such contingency.

6.7 Acceleration of Assessment Installment upon Default. If a Homeowner shall be in default in the payment of an installment upon a Common Expense Assessment, the Board may notify such defaulting Homeowners of the delinquent installment due and may accelerate the remaining installments of the assessment and file a lien for such accelerated amount upon notice to such defaulting Owner. If the delinquent installment has not been theretofore paid and if the Board elected to accelerate the remaining installments, the then unpaid balance of the Common Expense Assessment shall become due upon the date stated in the notice, which date shall not be less than five (5) days after delivery of the notice to such Homeowner, or not less than ten (10) days after the mailing of such notice to him or her by registered or certified mail, whichever shall first occur.

If no such notice is given or if such notice is given but the Board did not elect to accelerate the remaining installments, and default shall continue for a period of forty-five (45) days after the date due, then the Board shall be required to accelerate the

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remaining installments of the assessment upon notice to the defaulting Homeowner, and to file a lien for such accelerated assessment as permitted by law; in such latter event the Board may also notify any Institutional Lender holding a mortgage which encumbers the home affected by such default or publish appropriate notice of such delinquency to the Membership of the Association. If said default continues for a period of ninety (90) days after the due date, then the Board may foreclose the foregoing lien pursuant to law and/or commence a suit against the appropriate parties to collect said assessment.

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ARTICLE VI – FISCAL MANAGEMENT (continued)

6.8 Interest and Counsel Fees. In accordance with the Declaration and these By-Laws, the Board at its option shall have the right in connection with the collection of any Common Expense Assessment, or other charge, to impose a late charge in the amount of 10% of the Assessment. The delinquent Assessment, plus the late charge, shall bear interest from the date the late charge arose at the rate of 18% per year, or at the maximum rate permitted by law for delinquent real estate taxes, whichever is greater, until paid in full. In the event that the Board shall effectuate collection of said assessments or charges by resort to counsel, and/or the filing of a lien, or other legal action, the Board may add to the aforesaid assessments or charges the amount of all reasonable counsel fees, plus the reasonable costs for the preparation, filing and discharge of the lien, in addition to such other costs of collection as may be allowable by law.

(a) In the case of any action or proceeding brought or defended by the Homeowners Association or the Board pursuant to the provisions of these By-Laws, the reasonable costs and expenses of preparation and litigation, including attorneys' fees, shall be a Common Expense allocated to all Homeowners.

(b) Any judgments recovered by the Homeowners Association in any action or proceeding brought hereunder, including costs, penalties or damages, shall be deemed a special fund to be applied to: (1) the payment of unpaid litigation expenses; (2) refunding to the Homeowners the cost and expenses of litigation advanced by them; (3) Common Expenses, if the recovery thereof was the purpose of the litigation; (4) repair or reconstruction of the Homeowner's Common Property, if recovery of damages to same was the motivation for the litigation; and (5) any amount not applied to (1), (2), (3) and (4) above shall be at the discretion of the Board treated either as a common surplus which shall be allocated and distributed pursuant to the applicable provisions of the Declaration, or a set-off against the annual Common Expense assessments generally. Despite the foregoing, if any Member, the Board or any other person or legal entity affected by any such distribution, shall assert that the damages sustained or the diminution in value suffered by any Member was disproportionate, in that event the matter shall be submitted to alternative dispute resolution to be decided in accordance with the procedure set forth in Article XII.

(c) All Common Expense Assessment amounts received and to be received by the Board for the purpose of paying any judgment obtained against the Homeowners Association or the Board, and the right to receive such funds, shall constitute trust funds and the same shall be expended first for such purpose before expending any part of the same for any other purpose.

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ARTICLE VI – FISCAL MANAGEMENT

6.9 Annual Audit. The Board shall submit the books, records, and memoranda of the Homeowners Association to an annual audit by an independent certified public accountant who shall audit the same and render a report thereon in writing to the Board and to the Homeowners and such Institutional Lenders or other persons, firms or corporations as may be entitled to same. The audit report shall be delivered to the Homeowners no later than April 30. The audit shall cover the operating budget and reserve accounts.

6.10 Examination of Books. Each Homeowner shall be permitted to examine the books of account of the Board by appointment at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten (10) days prior written notice of the Homeowner's desire to make such an examination. Homeowners shall be permitted to request copies of any documents and shall be charged for the actual cost of the copies.

6.11 Fidelity Bonds. Fidelity bonds shall be required by the Board from all persons handling or responsible for Homeowners Association funds. The amount of such bonds shall be based on the amount of the annual budget. The premiums on such bonds shall be paid by the Homeowners Association.

6.12 Exempt Property. Despite the foregoing, the following property, subject to the Declaration and these By-Laws, shall be exempted from the assessments, charges and liens created herein:

(a) all properties dedicated to and accepted by a local public authority and all property, which, because of municipal, county, state or federal public use, cannot be devoted for use as a dwelling;

(b) all Homeowner Common Property;

(c) all property exempted from taxation under the laws of the State of New Jersey including, but not limited to, Homeowners Common Property used for church, school, municipal, county, state or charitable purpose upon the terms and to the extent of such legal exemption.

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ARTICLE VII – OFFICERS

7.1 Designation. The principal officers of the Homeowners Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be members of the Board. The Board may also appoint such other Assistant Treasurers and Assistant Secretaries as in their judgment may be necessary.

7.2 Election of Officers. The officers of the Homeowners Association shall be elected annually by the Board at the first Board of Directors meeting following the January meeting and such officers shall hold office at the pleasure of the Board.

7.3 Removal of Officers. Upon an affirmative vote of a majority of the full number of members of the Board, any officer may be removed, with or without cause, after opportunity for a hearing, and his or her successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

7.4 President. The President shall be the chief executive officer of the Homeowners Association. The President shall preside at all meetings of the Homeowners Association and of the Board. The President shall have all of the general powers and duties, which are usually vested in the office of President of a Homeowners Association.

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

7.6 Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Members of the Homeowners Association. The Secretary shall also be responsible for the sign-in sheets from all meetings including the number of ballots, if any, and determining the presence of a quorum, shall have charge of such books and papers as the Board may direct, and shall, in general perform all the duties of the office of the Secretary.

7.7 Treasurer. The Treasurer shall have the responsibility for the Homeowners Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Homeowners Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Homeowners Association in such depositories as may from time to time be authorized by the Board.

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The Treasurer shall be responsible for the mailing of the annual audit report to each Homeowner by April 30 annually.

ARTICLE VII – OFFICERS

7.8 Other Duties and Powers. The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board.

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ARTICLE VIII – COMPENSATION, INDEMNIFICATION AND EXCULPPABILITY

8.1 Compensation. No compensation shall be paid to any officer or Director or Committee Member for acting as such officer or Director or Committee Member. Nothing herein stated shall prevent any officer, Director or Committee Member from being reimbursed for out-of-pocket expenses, provided however that any such expenses incurred shall have been authorized in advance by the Board.

8.2 Indemnification. The Homeowners Association shall indemnify any Person made a party to any action, suit or proceeding, whether civil, administrative or investigative (other than an action by or in the right of the Homeowners Association) by reason of the fact of such Person's capacity as Director, officer, committee member, employee, servant or agent of the Homeowners Association, against expenses including reasonable attorney's fees and expenses, judgments and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, except as to matters as to which such Person shall be ultimately found in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement of any such case, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Homeowners Association is advised by counsel that the Person to be indemnified had not been guilty of gross negligence or willful misconduct. Any indemnification, which the Homeowners Association has elected to provide under this section, shall be made by the Board by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding. If there is not a quorum of directors who were not named in the suit or proceeding, indemnification shall be decided by the Homeowners by a majority vote at a special meeting. The indemnification provided by this section shall not be deemed exclusive of any other rights to which anyone seeking indemnification may otherwise have.

8.3 Exculppability. Unless acting in bad faith, neither the Board as a body nor any Director, Officer or Committee Member of the Homeowners Association, shall be personally liable to any Homeowner in any respect for any action or lack of action arising out of his or her position. Each Member shall be bound by the good faith actions of the Board, Officers and Committee Members of the Homeowners Association, in the execution of the duties of said Directors, Officers and Committee Members.

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ARTICLE IX – COMMITTEES

9.1 Architectural Design Review Committee (ADRC)

(a) Purpose. The ADRC shall be established and its members appointed by the Board. The ADRC shall be responsible for reviewing and approving or disapproving any and all plans for any construction or other activity, which falls within the scope of Section 4.01 of the Declaration. There shall be not less than three (3) members of the ADRC who need not be Members. ADRC members appointed by the Board shall serve for two (2) year terms. The initial term of ADRC members may be 1, 2, and 3 years, respectively, however so that the tenure of all does not end in the same year. ADRC members shall be subject to removal by the Board at any time without cause.

(b) Powers. The ADRC shall regulate the external design, appearance, use and maintenance of Homeowners Common Property and review and approve modifications or changes to existing homes, including Homeowners Common Property in accordance with standards and guidelines contained in the Declaration, these By-Laws or the Rules and Regulations as otherwise adopted by the Board. The ADRC shall have the power to issue a cease and desist request to a Homeowner, his or her guests, invitees or lessees whose actions are inconsistent with the provisions of the Declaration, these By-Laws, the Rules and Regulations or resolutions of the Board (upon petition of any Member or upon its own motion.) The ADRC shall from time to time, as required, provide interpretations of the Declaration, the Certificate and these By-Laws Rules and Regulations and resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a Homeowner or the Board. Any action, ruling or decision of the ADRC may be appealed to the Board by any party deemed by the Board to have standing as an aggrieved party and a vote of a majority of the full authorized membership of the Board may modify or reverse any such action, ruling or decision or allow variances there from as contemplated in the Declaration.

(c) Authority. The ADRC shall have such additional duties, power and authority as set forth in the Declaration and as the Board may from time to time provide by resolution including the right to impose fines. The Board may relieve the ADRC of any of its duties, powers and authority either generally or on a case-by-case basis by vote of a majority of its fully authorized membership thereof. The ADRC shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board. Despite the foregoing, no action may be taken by the ADRC without giving the Homeowner involved at least ten (10) days prior written notice and affording the Homeowner the opportunity to be heard, with or without counsel, with respect to the violation(s) asserted.

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ARTICLE IX – COMMITTEES (continued)

9.2 Election Committee (EC)

(a) Purpose. The Election Committee shall be established and its members appointed by the Board. The EC shall be responsible for overseeing the election of the Board of Directors processes and procedures. There shall be not less than three (3) members of the EC who shall be Homeowners. EC members appointed by the Board shall serve for a one (1) year term. EC members shall be subject to removal by the Board at any time without cause.

(b) Election Procedures

The Board of Directors shall select three (3) Homeowners to serve on the election committee at the first Board of Directors meeting of the year.

- 1) The EC shall open nominations in September for the Board of Directors seats whose terms are expiring. The nomination period will be from September 15 to November 15. EC will notify the Homeowners of the Open Nominations utilizing the HOA webpage and the monthly invoice mailing. Application packets shall be available on the HOA website and from the Management Company.
- 2) The EC shall accept a completed application and biography packet from each candidate.
- 3) The EC shall notify the Homeowners of each candidate's nomination via the HOA newsletters and website and web communications as they are received.
- 4) The EC shall establish the Ballot immediately following closure of the nomination period and forward to the Management Company.
- 5) The EC shall publish each candidate's biography and platform in the Monthly Newsletter, via web posting and the HOA billing statement mailing.
- 6) The EC shall approve all election materials and direct the Management Company to mail the election rules and ballots.
- 7) The voting period starts on December 1 and concludes on the day of the election at the January Meeting of the Homeowners.

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- 8) The EC shall keep a running count of the unopened ballots received and send reminders as necessary to establish a quorum.
- 9) The EC shall act as judges at the January Meeting of the Homeowners. The EC will tally the votes of Members in good standing and certify the election results with the recording Secretary.

ARTICLE IX – COMMITTEES (continued)

- 10) The EC shall direct the Management Company to retain all ballots for a period of one (1) year.

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ARTICLE X – FISCAL YEAR

10.1 The fiscal year of the Association shall be on a calendar year basis.

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ARTICLE XI – ENFORCEMENT

11.1 Enforcement Powers. The Homeowners Association shall have the power, at its sole option, to enforce the terms of these By-Laws or any Rules and Regulations promulgated pursuant hereto, by any or all of the following: self-help, sending notice to the offending party to cause certain things to be done or undone, restoring the Homeowners Association to its original position and charging the breaching party with the entire cost or any part thereof, complaint to any authority having jurisdiction, taking any other action before any court, summary or otherwise, as may be provided by law.

11.2 Collection Policy.

- a) (All common expense assessments are due and payable on or before the first (1st) day of each month at an address designated by management and shall be considered delinquent if received thereafter.
- b) If the payment is not received by the fifteenth (15th) day of the month due, the account shall be deemed late and a late charge shall automatically be added to the account and thereafter be part of the continuing lien for maintenance fees as provided for in the By-Laws until all sums due, including such late charge, shall have been paid in full. A “late notice” shall be sent to all Homeowners who have not paid common expense assessments in full within fifteen (15) days of the due date.
- c) The Board of Directors has determined that collection actions shall commence in the event that any homeowner is delinquent in the payment of any type of assessment due and owing to the Association, which balance is past due in excess of two (2) months assessment. At such time as any Homeowner is delinquent as provided above, the managing agent shall issue to the delinquent Homeowner a formal notice advising of the delinquency and demanding payment of same. Said notice shall indicate that the Board of Directors may accelerate the remaining balance of that fiscal year’s assessments should payment not be received by the managing agent by the time set forth in the notice, which shall not be less than five (5) days after delivery of notice to the Homeowner, nor less than ten (10) days after the mailing of such notice to him or her by registered or certified mail.

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ARTICLE XI – ENFORCEMENT (continued)

- d) If payment is not received by the managing agent by the time set forth in the notice to the Homeowner the assistance of legal counsel shall be sought and a lien shall be filed against the delinquent Homeowner for all past due amounts, accelerated charges, counsel fees, late charges and costs.
- e) If payment is made and the check is returned of non-sufficient funds, the cost of the returned check shall be assessed against the Homeowner.
- f) In the event the Board finds it necessary to pursue collections through legal counsel, it may assess a late charge in the amount of ten (10%) percent of the assessment. Additionally, the delinquent assessment plus the late charge shall bear interest from the date the late charge arose at the rate of eighteen (18%) percent per year, or at the maximum rate permitted by law for delinquent real estate taxes, whichever is greater, until paid in full. In the event that the Board shall effectuate collection of said assessments or charges by resort to counsel or other legal action, the Board may add to the assessments or charges the amount of all reasonable counsel fees plus the reasonable costs for the preparation, filing and discharge of the lien, in addition to such other costs of collection as may be allowable by law. Upon receiving notice from the managing agent to proceed with legal collections, legal counsel shall take any and all actions reasonably required to collect the outstanding balances. The managing agent shall keep legal counsel advised of any payments received subsequent to the filing of the lien or other legal action, and shall also advise counsel of any and all negotiations or payment arrangements agreed to with the delinquent Homeowner.
- g) Each monthly Common Expense Assessment shall be regarded as a separate payment for the calculation of late payment fees. If a Homeowner remits timely payment of a Common Expense Assessment for the month following that for which payment was not received, such payment will be regarded as payment for the current month, with payment for the previous month still being considered as outstanding.
- h) Any and all payments received by the Association, or its managing agent, shall be applied on a Homeowner's account in the following order:
 - 1) first again fines,

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- 2) then against late charges,
- 3) then against filing fees,
- 4) then against counsel fees,

ARTICLE XI - ENFORCEMENT (continued)

- 5) then against other charges,
- 6) then against special assessments and
- 7) lastly, against common expense assessments.

11.3 Assessment of Fines

a) In the event that the Board of Directors becomes aware of a violation of the Declaration of Covenants and Restrictions, By-Laws, and/or the Rules and Regulations of the Association, the Board may, in its discretion, levy against the offending member a fine in the amount of twenty five dollars (\$25.00) for any single violation.

b) For the purpose of assessing fines, in the event of a violation of the Declaration, By-Laws or Rules and Regulations of the Association, the Board of Directors may, at its discretion, treat each violation as a separate violation for each day after notice of the violation served upon the offending Homeowner.

c) All Homeowners are responsible for the conduct of their tenants, guests and/or occupants and any violation of the Declaration, By-Laws or Rules and Regulations by the tenants, guests or occupants of a home shall be assessable against the homeowner.

d) Prior to the imposition of any fine pursuant to this policy, the offending homeowner shall be given at least ten (10) days prior written notice and afforded an opportunity to be heard before the Board, with or without counsel, with respect to the violations asserted. In order for an offending Homeowner to be heard by the Board, formal written request must be made. Upon receipt of a formal written request to be heard, the Board shall allow the offending member an opportunity to discuss and address the alleged violation and the imposition of fines.

e) Fines shall be assessed beginning with the date of the first offense, which fine may continue until the violation has been abated.

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f) Any fines assessed pursuant to this policy may be enforced against any Homeowner involved as if the fines were an assessment owed by the particular Homeowner. Accordingly, all fines are assessable and collectable in a similar fashion as are Common Assessments.

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ARTICLE XII – ALTERNATIVE CONFLICT RESOLUTION

12.1 Alternative Conflict Resolution. The Homeowners Association shall provide a fair and efficient procedure for the resolution of disputes between individual Homeowners and the Association, and between different Homeowners that shall be readily available as an alternative to litigation.

12.2 Alternative Conflict Resolution Committee. The Board of Directors shall appoint a Committee of at least three (3) individuals of whom one shall be the Chairperson. The individuals shall be members of the Association but cannot be Officers of the Association or members of the Board of Directors. Their appointment shall be for a period of one (1) year.

12.3 Filing a Written Claim. If any Homeowner has what he/she feels is a dispute between the Association or another Homeowner, she/he may file a written complaint with the Alternative Conflict Resolution Committee. The complaint shall be filed within thirty (30) days after the complainant knew or should have known about the situation giving rise to the complaint. The complaint must be set forth in clear and concise language, the nature of the complaint and must be as specific as possible as to the time, dates, place and persons involved.

12.4 Serving the Complaint on the Respondent. The Committee shall serve a copy of the complaint on the Respondent at least ten (10) days prior to any hearing on the matter before the Committee either by personal service or by certified mail, return receipt requested. The complaint must be served with a Notice of Hearing.

12.5 Contents of Notice of Hearing:

- a) The Notice of Hearing must set forth the time, place and date of Hearing.
- b) It must contain a statement that the Respondent must be present at the hearing or risk a default against him/her, that he/she may, but need not be, represented by counsel.
- c) Respondent may present any relevant evidence.
- d) Respondent shall be given full opportunity to cross-examine all witnesses testifying against him/her.
- e) Respondent shall be entitled to request the attendance of witnesses.
- f) Respondent may request the Board of Directors and/or Managing Agent of the Association to produce books, documents and other relevant items.

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ARTICLE XII – ALTERNATIVE CONFLICT RESOLUTION (continued)

- g) Respondent must be advised to answer the allegations in the complaint at least three (3) days before the Hearing by notifying the Committee in writing that Respondent will appear at the Hearing and that the failure to notify in writing in advance will be deemed a default.
- h) In the event of a default; the Committee will render its decision based upon the allegations set forth in the complaint.

12.6 Hearing: The Committee shall conduct its hearings fairly and consistent with due process.

- a) Each party shall have the right to make a statement, introduce evidence, testimony and witnesses, cross-examine opposing parties and witnesses and rebut evidence and testimony.
- b) If the Complainant does not appear at the Hearing, the complaint shall be dismissed and this non-appearance deemed a waiver of the right to further Alternative Conflict Resolution Proceedings.
- c) If Respondent does not appear, her/his defenses, position and response shall be dismissed.

12.7 Decisions: The decision of the Committee is binding on the parties. Any party who is aggrieved by any decision of the Committee shall have the right to appeal such decision to a Court of competent jurisdiction. If there is not an appeal to a Court of competent jurisdiction within forty-five (45) days of the decision by the Committee, the decision by the Committee shall be binding on all parties and shall have full force and effect under the Laws of the State of New Jersey.

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ARTICLE XIII – MISCELLANEOUS

13.1 Notices. All notices hereunder to the Homeowners Association shall be in writing and forwarded to it at its principal office by first class mail with a copy to the Management Company. Any notice required to be sent to any Homeowner or any Institutional Lender under the provisions of these By-Laws shall be deemed to have been properly sent and notice thereby given, when mailed, by regular United States mail, with postage prepaid, addressed to the Homeowner or Institutional Lender at the last known post office address of such Member or Institutional Lender. Notice to one of co-owners of a home shall constitute notice to all co-owners. It shall be the obligation of every Homeowner to immediately notify the Secretary of the Homeowners Association in writing of any change of address with a copy to the Management Company.

13.2 Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the enforceability or affect the balance of these By-Laws.

13.3 Waiver. No restriction, condition, obligation or covenant contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

ARTICLE XIV: AMENDMENTS

These By-Laws, or any of them, may be altered or repealed, or new By-Laws may be made, at any meeting of the Membership duly constituted for such purpose, and previous to which written notice to Homeowners of the exact language of the amendment or of the repeal shall have been sent, a quorum being present, by a vote of 51 % of the Homeowners present, in person, or by mail-in ballot and entitled to vote thereon. Any amendment, repeal or new By-Law shall be recorded with the Atlantic County recording office.

ARTICLE XV: CONFLICT

Anything to the contrary herein despite, if any provision of these By-Laws is in conflict with or contradiction of the Declaration, the Certificate of Incorporation, or with the requirements of any law, then the requirements of the Declaration, Certificate of Incorporation, or law shall be deemed controlling.