

**AMENDED AND RESTATED BYLAWS
OF
LIFTSIDE CONDOMINIUMS ASSOCIATION
(As amended February 26, 1988, November 1985, October, 1983, and July 2012)**

**ARTICLE 1
General**

Section 1.1. Applicability. These Bylaws provide for the governance of Liftside Condominiums (the “Condominium”) located in Cambridge, Vermont, and being more particularly described in the Declaration of Condominium dated August 9, 1977, as amended from time to time and of record in the Town of Cambridge, Vermont Land Records (the “Declaration”).

Section 1.2. Compliance. Every Apartment Owner and all those entitled to occupy an Apartment shall comply with these Bylaws.

Section 1.3. Office. The office of the Condominium, the Association, and the Board of Directors shall be located in Cambridge, Vermont at the Condominium’s property (the “Property”) or at such other place as may be designated from time to time by the Board of Directors.

Section 1.4. Definitions. Each capitalized term used herein without definition shall have the meanings specified in the Declaration, to which these Bylaws are attached, as it may be amended from time to time, or as provided in the Vermont Common Interest Ownership Act (the “Act”) as amended.

**ARTICLE 2
Association**

Section 2.1. Composition; Responsibility. The Liftside Condominiums Association, Inc. (the “Association”) shall consist of all Apartment Owners acting as a group. The Association shall have the responsibility for administering the Condominium, establishing the means and methods of collecting Assessments for Common Expenses, arranging for the management of the Condominium, and performing all of the other acts that may be required or permitted to be performed by the Association, by the Act, and the Declaration. Except as to those matters which the Act specifically requires to be performed by the vote of the Association, the foregoing shall be performed by the Board of Directors or its designee.

Section 2.2. Annual Meetings. An annual meeting of the Association shall be held each year at a time to be determined by the Board of Directors. Unless a different time is determined, said meeting shall occur within three days of the annual meeting of the Smugglers’ Notch Homeowners’ Association, Inc. At such annual meetings, elections shall be held to elect Directors to serve on the Board of Directors. If, in any year, an annual meeting is not held, a special meeting may be held in lieu thereof, and any elections or business transacted any annual meeting.

Section 2.3. Special Meetings. Special meetings of the Apartment Owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration require the approval of all or some of the Apartment Owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by the President or a majority of the Board of Directors, or by the Apartment Owners having twenty percent (20%) of the total votes in the Association.

Section 2.4. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Apartment Owners as may be designated by the Board of Directors.

Section 2.5. Notice of Meetings.

(a) The Association shall notify Apartment Owners of the time, date, and place of each annual, special, and special Apartment Owners meeting not less than 10 days or more than 60 days before the meeting date. Notice may be by any means described in Section 3-121 of the Act. The notice of any meeting must state the time, date, and place of the meeting and the items on the agenda, including:

- (i) a statement of the general nature of any proposed amendment to the Declaration or Bylaws;
- (ii) any budget changes; and
- (iii) any proposal to remove an officer or member of the Board of Directors.

(b) Any Apartment Owner may at any time, in writing, waive notice of any meeting of the Association, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by an Apartment Owner at any meeting of the Association without objection to the notice of the meeting shall constitute a waiver of notice by him or her of the time, place and purpose of such meeting. The minimum time to give notice required by Section 2.5(a) may be reduced or waived for a meeting called to deal with an emergency.

(c) Meetings of the Association or Board of Directors may be conducted by telephonic, video, or other conferencing process as long as:

- (i) the meeting notice states the conferencing process to be used and provides information explaining how Apartment Owners may participate in the conference directly or by meeting at a central location or conference connection; and
- (ii) the process provides all Apartment Owners the opportunity to hear or perceive the discussion and to comment as provided in Section 2.10.

(d) If the Association does not notify Apartment Owners of a special meeting within 30 days after the requisite number or percentage of Apartment Owners request the Secretary to do so, the requesting Apartment Owners may directly notify all the Apartment Owners of the meeting. Only matters described in the meeting notice required by Section 2.5(a) may be considered at a special meeting.

Section 2.6 Method of Providing Notice.

(a) The Association shall deliver any notice required to be given by the Association under the Act to the mailing address or the electronic mail address provided by each Apartment Owner. The Association may also deliver notices by:

- (i) hand delivery to each Apartment Owner;
- (ii) United States mail postage paid or commercially reasonable delivery service to the mailing address of each Apartment;
- (iii) electronic means, (each Apartment Owner shall give the Association an electronic address that can be used for this purpose); or
- (iv) any other method reasonably calculated to provide notice to the Apartment Owner.

(b) The ineffectiveness of a good faith effort to deliver notice by an authorized means does not

invalidate action taken at or without a meeting.

Section 2.7. Adjournment of Meetings. If at any meeting of the Association a quorum is not present, Apartment Owners having a majority of the votes who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than 48 hours after the time the original meeting was called.

Section 2.8. Voting.

(a) Apartment Owners shall be entitled to vote on Association matters as provided in the Declaration and the Act. Apartment Owners' vote shall be weighted in accordance with their Undivided Interest in the Association as allocated in the Declaration (per Exhibit III), and joint owners of an Apartment shall vote their one (1) vote collectively through one owner identified as the "Voting Member" in a writing filed with the Secretary.

(b) Apartment Owners may vote at a meeting in person, by absentee ballot pursuant to Section 2.8(c)(iv), by a proxy pursuant to Section 2.8(d) or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to Section 2.8(e).

(c) At a meeting of the Association, the following requirements apply:

- (i) Apartment Owners who are present in person may vote by voice vote, show of hands, standing, or any other method for determining the votes of Apartment Owners, as designated by the person presiding at the meeting.
- (ii) If only one of multiple owners of an Apartment is present, that owner is entitled to cast all the votes allocated to that Apartment. If more than one of the owners is present, the votes allocated to that Apartment may be cast only by the Voting Member. Joint owners may designate a different Voting Member at a meeting by the agreement of a majority in interest of the owners, unless the Declaration expressly provides otherwise.
- (iii) Unless a greater number or fraction of the votes in the Association is required by the Act or the Declaration, a majority of the votes cast determines the outcome of any action of the Association.
- (iv) An Apartment Owner may vote by absentee ballot without being present at the meeting. The Association promptly shall deliver an absentee ballot to an Apartment Owner that requests it if the request is made at least three (3) days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.
- (v) When an Apartment Owner votes by absentee ballot, the Association must be able to verify that the ballot is cast by the Voting Member.

(d) The following requirements apply with respect to proxy voting:

- (i) Votes allocated to an Apartment may be cast pursuant to a directed or undirected proxy duly executed by an Apartment Owner or Voting Member.
- (ii) If an Apartment is owned by more than one person, each owner of the Apartment may register protest to the casting of the Apartment's vote(s) by the Voting Member.
- (iii) An Apartment Owner may revoke a proxy given pursuant to this Section only by actual

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notice of revocation to the person presiding over a meeting of the Association.

- (iv) A proxy is void if it is not dated or purports to be revocable without notice.
- (v) A proxy is valid only for the meeting at which it is cast and any recessed session of that meeting.
- (vi) A person may not cast undirected proxies representing more than 15 percent of the votes in the Association.

(e) The Association may conduct a vote without a meeting. In that event, the following requirements apply:

- (i) The Association shall notify the Apartment Owners that the vote will be taken by ballot.
- (ii) The Association shall deliver a paper or electronic ballot to every Apartment Owner entitled to vote on the matter.
- (iii) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.
- (iv) When the Association delivers the ballots, it shall also:
 - (A) indicate the number of responses needed to meet the quorum requirements;
 - (B) state the percent of votes necessary to approve each matter other than election of directors;
 - (C) specify the time and date by which a ballot must be delivered to the Association to be counted, which time and date may not be fewer than three (3) days after the date the Association delivers the ballot; and
 - (D) describe the time, date, and manner by which an Apartment Owner wishing to deliver information to all Apartment Owners regarding the subject of the vote may do so.
- (v) A ballot is not revoked after delivery to the Association by death or disability or attempted revocation by the Apartment Owner that cast that vote.
- (vi) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

(f) Votes allocated to an Apartment owned by the Association shall be cast in any vote of the Apartment Owners in the same proportion as the votes cast on the matter by Apartment Owners other than the Association.

Section 2.9. Quorum. A quorum is present throughout any meeting of the Association if persons entitled to cast twenty percent (20%) of the votes in the Association: (a) are present in person or by proxy at the beginning of the meeting; (b) have cast absentee ballots solicited in accordance with these Bylaws which have been

delivered to the Secretary in a timely manner; or (c) are present by any combination of subdivisions (a) and (b) of this Section.

Section 2.10. Conduct of Meetings. The President shall preside over all meetings of the Association. The Secretary shall keep the minutes of the meetings and shall record in a minute book all resolutions adopted at the meetings as well as keep a record of all transactions occurring at the meetings. Apartment Owners must be given a reasonable opportunity at any meeting to comment regarding any matter affecting the Condominium or the Association.

ARTICLE 3 **Board of Directors**

Section 3.1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors composed of three persons. All Directors shall be Apartment Owners. An officer, director, manager, member or authorized or agent of a corporate or limited liability company member, or general partner of a partnership, or the beneficiary of a trust that owns an Apartment shall be deemed to be the Apartment Owner for this purpose. Not more than one (1) Owner of any Apartment may be a Director at one time.

Section 3.2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not prohibited by the Act, including the following:

(a) Prepare an annual budget, in which there shall be established the Assessment for each Apartment Owner for the Common Expenses of the Association (the "Common Expenses"). Common Expenses shall include all monies necessary to provide for the operation, care, upkeep and maintenance of all of the Property and services of the Association and to pay for the Association's share of the cost of maintaining roads and other common facilities shared by the Association and other users. Assessments will be charged to the Owners of each Apartment according to their Undivided Interest. Notwithstanding the forgoing, Assessments necessary to cover costs associated with Limited Common Areas and Facilities shall only be only assessed against those Apartment Owners that have the right to use the same.

(b) Make Assessments against Apartment Owners to defray the Common Expenses of the Association, establish the means and methods of collecting such Assessments from the Apartment Owners including reasonable discounts, late fees, interest, penalties, and other costs of the collection including attorneys' fees, and establish the period of the installment payment of the Assessment for Common Expenses.

(c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Association.

(d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Areas and Facilities and Limited Common Areas and Facilities, provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties (which supplies, equipment and materials shall be deemed part of the Property).

(e) Collect the Assessments against the Apartment Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors, and use the proceeds to carry out the administration of the Property.

(f) Make and amend the Rules and Regulations applicable to Apartment Owners and occupants of Apartments.

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- (g) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (h) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Common Elements, and for repairs to and restoration of the Common Elements, in accordance with these Bylaws, after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
 - (i) Enforce by legal means the provisions of the Act, the Declaration, these Bylaws and the Rules and Regulations and act on behalf of the Apartment Owners with respect to all matters as provided for in the Declaration, the Act, these Bylaws, and applicable law. The Board of Directors may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the Act, Declaration, Bylaws, and rules, including whether to compromise any claim for unpaid Assessments or other claim made by or against it. The Board of Directors does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:
 - (i) the Association's legal position does not justify taking any or further enforcement action;
 - (ii) the covenant, restriction, or rule being enforced is or is likely to be construed as inconsistent with law;
 - (iii) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or
 - (iv) it is not in the Association's best interests to pursue an enforcement action.
- (j) Obtain and carry fidelity insurance and insurance against casualties and liabilities, as provided in the Declaration, the Act and in these Bylaws, pay the premiums therefor and adjust and settle any claim thereunder.
- (k) Pay the cost of all authorized services rendered to the Association and not billed to Apartment Owners of individual Apartments or otherwise provided for in these Bylaws.
- (l) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Association, the Common Elements and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Apartment Owners, their duly authorized agents or attorneys, and the holders, insurers, and grantors of first mortgages, during general business hours on working days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Apartment Owners. All books and records shall be kept in accordance with good accounting practices.
- (m) Borrow money on behalf of the Association when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Property; provided, however, that the consent of at least two-thirds of the votes of Apartment Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum.
- (n) Acquire, hold and dispose of Apartments and mortgage the same if such expenditures and

hypothecations are included in the budget adopted by the Association.

(o) Do such other things and acts permitted by and not inconsistent with the Act, the Declaration or these Bylaws which the Board of Directors may be authorized to do by a resolution of the Association, and exercise all other powers that may be exercised in this state by organizations of the same type as the Association.

(p) Suspend any right or privilege of an Apartment Owner that fails to pay an Assessment, provided that it may not: (i) deny an Apartment Owner or other occupant access to the owner's Apartment ; (ii) suspend an Apartment Owner's right to vote; (iii) prevent an Apartment Owner from seeking election as a Director or Officer of the Association; or (iii) withhold services provided to an Apartment or an Apartment Owner by the Association if the effect of withholding the service would be to endanger the health, safety, or property of any person.

(q) Institute litigation or an arbitration, mediation, or administrative proceeding against any person, subject to and in accordance with the provisions of the Act, the Declaration, these Bylaws and other applicable law. The Board of Directors promptly shall provide notice to the Apartment Owners of any legal proceeding in which the Association is a party other than proceedings involving enforcement of rules or to recover unpaid Assessments or other sums due the Association.

(r) The Board of Directors shall establish a reasonable method for Apartment Owners to communicate among themselves and with the Board of Directors on matters concerning the Association.

Section 3.3. Managing Agent. The Board of Directors may employ for the Association a "Managing Agent" at a compensation to be established by the Board of Directors, provided such compensation is in an amount and on terms as would be negotiated between unrelated third parties for similar projects.

Section 3.4. Election and Term of Office. At each annual meeting of the Association, the Association shall elect Directors to fill the seats of any Director whose term has expired. The term of office for Directors shall be for three (3) years unless other terms are established by the Association at any annual meeting. The Directors shall hold office until their respective successors shall be elected by the Association. The terms of the Directors shall be staggered so one Director is elected every year absent a resignation or other change in Director other than by expiration of their term. Any Apartment Owner eligible to vote at any meeting at which an election is properly held may nominate any person eligible to serve as a Director and may place their own name in nomination. All such nominations must be received prior to the meeting so that the nominee may be placed on the ballot. In the absence of a different due date set forth in the notice of the meeting, all nominations must be received at least two weeks prior to the meeting. Directors shall be elected by a plurality in interest of those members present in person or by proxy. An individual elected a Director shall become qualified as such upon acceptance of the position. If a Director resigns or leaves office for some other reason, the person elected to that position shall serve for the balance of the remaining term.

Section 3.5. Removal or Resignation of Directors.

(a) Notwithstanding any provision of the Declaration or Bylaws to the contrary, Apartment Owners present in person, by proxy, or by absentee ballot at any meeting of the Association at which a quorum is present may remove any Director, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, but the Apartment Owners may not consider whether to remove a Director or an Officer unless that subject was listed in the notice of the meeting.

(b) Any Director whose removal has been proposed by the Apartment Owners shall be given at least ten days' notice of the time of the meeting. At any meeting at which a vote to remove a Director is to be taken, the Director being considered for removal must have a reasonable opportunity to speak before the vote.

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(c) Following a vote for removal of a Director, a successor may then and there be elected to fill the vacancy thus created.

(d) A Director may resign at any time and shall be deemed to have resigned upon the sale of his or her Apartment.

Section 3.6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but such a meeting shall be held at least following each meeting of the Association without notice. Notice of regular meetings of the Board of Directors shall be given to each Director, in the manner as from time to time determined by the Board of Directors.

Section 3.7. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' written notice to each Director, given by mail, telegraph, facsimile, or hand delivery, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of any Director.

Section 3.8. Meeting Requirements. The following requirements apply to meetings of the Board of Directors and committees of the Association authorized to act for the Association:

(a) Meetings shall be open to the Apartment Owners except during executive sessions. The Board of Directors and those committees that hold meetings may hold an executive session only during a regular or special meeting of the Board of Directors or the committee. No final vote or action may be taken during an executive session. An executive session may be held only to:

- (i) consult with the Association's attorney concerning legal matters;
- (ii) discuss existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (iii) discuss labor or personnel matters;
- (iv) discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the Association at a disadvantage; or
- (v) prevent public knowledge of the matter to be discussed if the Board of Directors or committee determines that public knowledge would violate the privacy of any person.

(b) For purposes of this Section 3.8, a gathering of Board of Directors at which the Board of Directors do not conduct Association business is not a meeting of the Board of Directors. The Board of Directors and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this Section 3.8.

(c) At each Board of Directors meeting, the Board of Directors shall provide a reasonable opportunity for Apartment Owners to comment regarding any matter affecting the Condominium and the Association.

(d) Unless the meeting is included in a schedule given to the Directors or the meeting is called to deal with an emergency, the Secretary or President shall give notice of each Board of Directors meeting to each Director and to the Apartment Owners. The notice must be given at least 10 days before the meeting and must state the time, date, place, and agenda of the meeting.

(e) If any materials are distributed to the Board of Directors before the meeting, the Board of Directors at the same time shall make copies of those materials reasonably available to Apartment Owners, including without limitation on a message board, electronic message board or website, except that the Board of Directors need not make available copies of unapproved minutes or of materials that are to be considered in executive session.

(g) The Board of Directors may meet by telephonic, video, or other conferencing process if:

- (i) the meeting notice states the conferencing process to be used and provides information explaining how Apartment Owners may participate in the conference directly or by meeting at a central location or conference connection; and
- (ii) the process provides all Apartment Owners the opportunity to hear or perceive the discussion and to comment as provided in Section 2.10.

(h) Instead of meeting, the Board of Directors may act by unanimous consent as documented in a record authenticated by all the Directors. The Secretary promptly shall give notice to all Apartment Owners of any action taken by unanimous consent. The Board of Directors may act by unanimous consent only to undertake ministerial actions or to implement actions previously taken at a meeting of the Board of Directors.

(j) Even if an action by the Board of Directors is not in compliance with this Section 3.8, it is valid unless set aside by a court. A challenge to the validity of an action of the Board of Directors for failure to comply with this Section 3.8 may not be brought more than sixty (60) days after the minutes of the Board of Directors of the meeting at which the action was taken are approved or the record of that action is distributed to Apartment Owners, whichever is later.

Section 3.9. Waiver of Notice. Any Director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.10. Quorum. A quorum of the Board of Directors is present for purposes of determining the validity of any action taken at a meeting of the Board of Directors only if individuals entitled to cast fifty percent (50%) of the votes on the Board are present at the time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors unless a greater vote is required by the Declaration or these Bylaws.

Section 3.11. Compensation. No Director shall receive any compensation from the Association for acting as such.

Section 3.12. Liability of the Board of Directors, Officers, Apartment Owners, and Association.

(a) The Association's Officers and Directors shall not be liable to the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Officers and Directors from and against all expenses and liabilities to others arising out of claims made against the Officers or Directors on account of their status as Officers and Directors unless any such claim shall arise out of an action taken in bad faith or contrary to the provisions of the Act, the Declaration or these Bylaws.

(b) Neither the Association nor the Board of Directors shall be liable for any failure of utility or

other services, or for injury or damage to person or property caused by the elements or by any Apartment Owner or any other person, or resulting from electricity, water, snow, or ice which may leak or flow from any portion of the Property, including the Common Elements, or from any pipe, drain, conduit, appliance, or equipment. The Association shall not be liable to any Apartment Owner for loss or damage, by theft, or otherwise, of articles which may be stored upon any portion of the Property or the Common Elements. No diminution or abatement of any Assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Property or Common Elements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

ARTICLE 4 **Officers**

Section 4.1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors (the "Officers"). The Board of Directors may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The President shall be a member of the Board of Directors. A person who is a member of the Board of Directors may be an Officer. The President and the Secretary may not be the same person.

Section 4.2. Election of Officers. The Officers shall be elected annually by the Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 4.3. Removal of Officers.

(a) Notwithstanding any provision of the Declaration or Bylaws to the contrary, Apartment Owners present in person, by proxy, or by absentee ballot at any meeting of the Association at which a quorum is present may remove any Officer, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, but the Apartment Owners may not consider whether to remove an Officer at a meeting of the Association unless that subject was listed in the notice of the meeting.

(b) At any meeting at which a vote to remove an Officer is to be taken, the Officer being considered for removal must have a reasonable opportunity to speak before the vote.

(c) A successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose, including the meeting at which the Officer was removed.

Section 4.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Board of Directors, and have all of the general powers and duties which are incident to the office of president generally including, without limitation, the power to appoint committees from among the Directors from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a

register setting forth the place to which all notices to Apartment Owners and others shall be delivered; and, in general, perform all the duties incident to the office of Secretary.

Section 4.7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; make disbursements on behalf of the Association upon consent of the Board of Directors and shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors; and, in general, perform all the duties incident to the office of Treasurer.

Section 4.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of an amount to be set the Board of Directors (the "Authorized Amount") and all checks drawn upon reserve accounts shall be executed by any two (2) persons designated by the Board of Directors. All such instruments for expenditures or obligations of the Authorized Amount or less, except from reserve accounts, may be executed by the Treasurer or any one person designated by the Board of Directors.

Section 4.9. Compensation of Officers. No Officer who is also a Director shall receive any compensation from the Association for acting as such Officer.

Section 4.10. Bonds. The Board of Directors shall have the discretion to require Officers or agents hired by the Association to furnish bonds for the faithful performance of their duties, in such a manner and with such sureties, as may be fixed and required by the Board of Directors.

ARTICLE 5 **Operation of Association**

Section 5.1. Determination of Common Expenses and Assessments Against Apartment Owners.

(a) **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

(b) **Preparation and Approval of Budget.**

(i) On or before forty-five (45) days preceding the end of the fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Areas and Facilities and Limited Common Areas and Facilities and those parts of the Apartments and other properties as to which it is the responsibility of the Board of Directors to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, the Bylaws, or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Apartment Owners of all related services.

(ii) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The Board of Directors shall send to each Apartment Owner prior to the end of the fiscal year, a copy of the budget for the next fiscal year in a reasonable itemized form which sets forth the amount of the Common

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Expenses and any special assessments payable by each Apartment Owner. Such budget shall constitute the basis for determining each Apartment Owner's Assessment for the Common Expenses of the Association.

- (iii) The budget shall be ratified by the Apartment Owners in accordance with the terms of the Declaration and the Act, as follows: Not later than thirty (30) days after adoption of a proposed budget, the Board of Directors shall provide to all the Apartment Owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the Board of Directors shall set a date not less than ten (10) days or more than sixty (60) days after providing the budget summary for a meeting of the Apartment Owners to consider ratification of the budget. Unless at that meeting a majority of all Apartment Owners or any larger number specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. If a proposed budget is rejected, the budget last ratified by the Apartment Owners continues until Apartment Owners ratify a subsequent budget.

(c) Assessment of Common Expenses. The total amount of the estimated funds required from Assessments for the operation of the Association set forth in the budget adopted by the Board of Directors shall be assessed against each Apartment Owner in proportion to the respective Undivided Interest of each Apartment. The Assessment against each Apartment shall begin on the date specified in the Declaration.

(d) Excess Funds. Any funds collected during any fiscal year in excess of actual expenditures for that fiscal year shall be either applied to succeeding years' expenses or refunded, pro rata, to the Apartment Owners.

(e) Reserves. The Board of Directors shall include in the budget and build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Said reserves shall be maintained at a level sufficient to meet secondary mortgage market requirements. The proportionate interest of any Apartment Owner in any replacement reserve shall be appurtenant to the Apartment and shall not be separately withdrawn, assigned or transferred. If the reserve is inadequate for any reason, the Board may levy a further Assessment, payable as the Board determines necessary at any time. The Board will specifically earmark such capital reserve fund for stated capital purposes and keep special assessments in a separate bank account. The Board shall keep documentation of and treat all such funds as capital items on the Association books.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Apartment Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Apartment Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notice of the monthly payment which is due.

(g) Availability of Financial Statements and Project Documents. Upon the receipt of a written request by the Association from an Apartment Owner or an Institutional Mortgagee, the Association shall make the most recent regularly prepared income and expense statement of the Association, the current operating budget of the Association and all project related documents, including the Declaration, Bylaws, Rules and Regulations, books and records of the Association available for inspection during regular business hours at the Association's office.

(h) Special Assessments. The Board of Directors, at any time, may propose a special assessment. Except as otherwise provided below, the assessment is effective only if the Board of Directors follows the procedures for ratification of a budget described in Section 5.1(b) and the Apartment Owners do not reject the proposed assessment. If the Board of Directors determines by a two-thirds vote that a special assessment is

necessary to respond to an emergency:

- (i) the special assessment becomes effective immediately in accordance with the terms of the vote;
- (ii) notice of the special assessment must be provided promptly to all Apartment Owners; and
- (iii) the Board of Directors may spend the funds paid on account of the special assessment only for the purposes described in the notice.

(i) Costs of Upkeep. The Apartment Owner shall be responsible for the proper maintenance and repair of their respective Apartments. If the Board of Directors or Manager shall at any time in their reasonable judgment determine that an Apartment is in need of maintenance, painting or repairs, or that the condition of the Apartment and/or fixtures, facilities or equipment therein is hazardous to the other Apartments or the occupants thereof, or others, the Board of Directors may, in writing, demand that the Apartment Owner perform such needed maintenance, painting or repair or otherwise correct the hazardous condition and in case such work shall not have been commenced within fifteen (15) days (or such reasonably shorter period, in case of emergency, as the Board of Directors shall determine) of such request and brought to diligent completion, the Board of Directors shall be entitled to have access to the Apartment and to have the work performed for the account of the Apartment Owner whose Apartment is in need of such work, and the cost thereof shall be assessed against the Owners of such Apartment as a Special Assessment.

Section 5.2. Payment of Common Expenses. No Apartment Owner may exempt himself/herself from liability for his/her contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his or her Apartment. Payment of any single Assessment or the first installment of an Assessment to be paid in several installments shall be due within thirty (30) days of receipt thereof. Any subsequent installments shall be due on the date set forth in the initial Assessment. All Assessments or other amounts owed not paid when due, including all interest, costs, and reasonable attorneys' fees, shall be a lien against the Apartment Owner's Apartment effective as of the due date. Prior to or at the time of any conveyance of an Apartment by an Apartment Owner, unpaid Assessments and other amounts owed shall be paid in full and all liens discharged. Each record owner of an Apartment that is owned by more than one owner shall be jointly and severally liable for all Assessments. In the event of a voluntary conveyance of an Apartment, the Grantee of an Apartment shall be jointly and severally liable with the Grantor for all unpaid assessments against the latter for their share of the common expenses up to the time of the grant or conveyance without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor.

Section 5.3. Collection of Assessments. The Board of Directors, or the Managing Agent at the request of the Board of Directors, shall take prompt action to collect any Assessments for Common Expenses due from any Apartment Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any Assessment, or installment thereof, not paid within five (5) days after the due date shall accrue a late charge in such reasonable amount as a percentage of the overdue Assessment or installment as the Board of Directors shall establish from time to time. Any Apartment Owner who fails to make such payment within such period shall also be assessed the costs incurred by the Association to collect such unpaid assessments. All such Assessments and amounts otherwise due shall also be the personal obligation of the Apartment Owner.

Section 5.4. Statements.

(a) Statement of Common Expenses. Within ten (10) days after a request by an Apartment Owner, the Board of Directors shall provide the Apartment Owner with a written statement of all unpaid Assessments and amounts otherwise due from the Apartment Owner. The Board of Directors shall not impose a charge for

the preparation of such statement.

(b) Statement of Default. The Board of Directors will make a reasonable effort to notify any mortgagee of any Apartment, upon request, of any default in the performance by the Apartment Owner of any obligation pursuant to the Declaration, the Bylaws and the Rules and Regulations, which is not cured within sixty (60) days of notice to each Apartment Owner of such default.

Section 5.5 Actions to Foreclose a Lien.

- (a) The Association may not commence an action to foreclose a lien on an Apartment unless:
- (i) the Apartment Owner, at the time the action is commenced, owes a sum equal to at least three months of Common Expense Assessments based on the periodic budget last adopted by the Association pursuant to Section 5.1 (in accordance with Section 3-115(a) of the Act) and the Apartment Owner has failed to accept or comply with a payment plan offered by the Association; and
 - (ii) the Board of Directors votes to commence a foreclosure action specifically against that Apartment.

(b) Unless the parties otherwise agree, the Association shall apply any sums paid by Apartment Owners that are delinquent in paying Assessments in the following order:

- (i) unpaid Assessments;
- (ii) late charges;
- (iii) reasonable attorney's fees and costs and other reasonable collection charges; and
- (iv) all other unpaid fees, charges, fines, penalties, interest, and late charges.

(c) Notwithstanding Section (a) of this Section 5.5, unless sums due the Association include an unpaid Assessment, a foreclosure action may not be commenced against the Apartment unless the Association has a judgment against the Apartment Owner for the sums due the Association and has perfected a judgment lien against the Apartment.

(d) Every aspect of a foreclosure, sale, or other disposition under this Section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Section 5.6 Association Rules.

(a) Before adopting, amending, or repealing any rule, the Board of Directors shall give all Apartment Owners notice of:

- (i) its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change; and
- (ii) a date on which the Board of Directors will act on the proposed rule or amendment after considering comments from Apartment Owners.

(b) Following adoption, amendment, or repeal of a rule, the Association shall notify the Apartment Owners of its action and provide a copy of any new or revised rule.

(c) The Association may adopt rules to establish and enforce construction and design criteria and aesthetic standards if the Declaration so provides. If the Declaration so provides, the Association shall adopt procedures for enforcement of those standards and for approval of construction applications, including a reasonable time within which the Association must act after an application is submitted and the consequences of its failure to act.

(d) A rule regulating display of the flag of the United States must be consistent with federal law. In addition, the Association may not prohibit display on an Apartment or on a Limited Common Element adjoining an Apartment of the flag of this state, or signs regarding candidates for public or Association office or ballot questions, but the Association may adopt rules governing the time, place, size, number, and manner of those displays.

(e) Apartment Owners may peacefully assemble on the Common Elements to consider matters related to the Association, but the Association may adopt rules governing the time, place, and manner of those assemblies.

(f) The Association may adopt rules that affect the use of or behavior in Apartments that may be used for residential purposes, only to:

- (i) implement a provision of the Declaration;
- (ii) regulate any behavior in or occupancy of an Apartment which violates the Declaration or adversely affects the use and enjoyment of other Apartments or the Common Elements by other Apartment Owners; or
- (iii) restrict the leasing of residential Apartments to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on Apartments in Common Interest Communities or regularly purchase those mortgages.

(g) The Association's internal business operating procedures need not be adopted as rules.

(h) Every rule must be reasonable.

Section 5.7. Required Records.

(a) The Association shall retain the following:

- (i) detailed records of receipts and expenditures affecting the operation and administration of the Association and other appropriate accounting records;
- (ii) minutes of all meetings the Association and Board of Directors other than executive sessions, a record of all actions taken by the Apartment Owners or Board of Directors without a meeting, and a record of all actions taken by a committee in place of the Board of Directors on behalf of the Association;
- (iii) the names of Apartment Owners in a form that permits preparation of a list of the names of all owners and the addresses at which the Association communicates with them, in alphabetical order showing the number of votes each owner is entitled to cast;
- (iv) its original or restated Declaration, Bylaws, Rules and all amendments to them, and all

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rules currently in effect;

- (v) all financial statements and tax returns of the Association for the past three years;
- (vi) a list of the names and addresses of its current Directors and Officers;
- (vii) its most recent annual report delivered to the Secretary of State;
- (viii) financial and other records sufficiently detailed to enable the Association to comply with Section 4-109 of the Act, that governs information that must be provided to an Apartment Owner that is selling an Apartment ;
- (ix) copies of current contracts to which it is a party;
- (x) records of Board of Directors or committee actions to approve or deny any requests for design or architectural approval from Apartment Owners; and
- (xi) ballots, proxies, and other records related to voting by Apartment Owners for one year after the election, action, or vote to which they relate.

(b) Subject to subsections (c) and (d) of this Section, all records retained by the Association must be available for examination and copying by an Apartment Owner or the owner's authorized agent:

- (i) during reasonable business hours or at a mutually convenient time and location; and
- (ii) upon five (5) days' notice in a request reasonably identifying the specific records of the Association requested.

(c) Records retained by the Association may be withheld from inspection and copying to the extent that they concern:

- (i) personnel, salary, and medical records relating to specific individuals;
- (ii) contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;
- (iii) existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (iv) existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Declaration, Bylaws, or Rules;
- (v) communications with the Association's attorney which are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;
- (vi) information the disclosure of which would violate law other than the Act;
- (vii) records of an executive session of the Board of Directors; or
- (viii) individual Apartment files other than those of the requesting owner.

(d) The Association may charge a reasonable fee for providing copies of any records under this

Section and for supervising the Apartment Owner's inspection.

- (e) A right to copy records under this Section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the Apartment Owner.
- (f) The Association is not obligated to compile or synthesize information.
- (g) Information provided pursuant to this Section may not be used for commercial purposes.

Section 5.8. Litigation Involving Declarant.

(a) The following requirements limit the Association's authority to institute and maintain a proceeding on behalf of itself or two or more Apartment Owners, if that action alleges a construction defect with respect to the Property, and involves a claim, whether by litigation, mediation, arbitration, or administratively, against a Declarant or an employee, independent contractor, or other person directly or indirectly providing labor or materials to a Declarant:

- (i) Subject to subsection (e) of this Section, before the Association institutes a proceeding described in this section, it shall provide notice in a record of its claims to the Declarant and those persons that the Association seeks to hold liable for the claimed defects. The text of the notice may be in any form reasonably calculated to give notice of the general nature of the Association's claims, including a list of the claimed defects. The notice may be delivered by any method of service and may be addressed to any person if the method of service used:
 - (A) provides actual notice to the person named in the claim; or
 - (B) would be sufficient to give notice to the person in connection with commencement of an action by the Association against the person.
- (ii) Subject to Section 5.8(e), the Association may not institute a proceeding against a person until forty five (45) days after the Association sends notice of its claim to that person.
- (iii) During the period described in Section 5.8(a)(ii), the Declarant and any other person to which the Association gave notice may present to the Association a plan to repair or otherwise remedy the construction defects described in the notice. If the Association does not receive a timely remediation plan from a person to which it gave notice, or if the Association does not accept the terms of any plan submitted, the Association may institute a proceeding against the person.
- (iv) If the Association receives one or more timely remediation plans, the Board of Directors shall consider promptly those plans and notify the persons to which it directed notice whether the plan is acceptable as presented, acceptable with stated conditions, or not accepted.
- (v) If the Association accepts a remediation plan from a person the Association seeks to hold liable for the claimed defect, or if a person agrees to stated conditions to an otherwise acceptable plan, the parties shall agree on a period for implementation of the plan. The Association may not institute a proceeding against the person during the time the plan is being diligently implemented.

- (vi) Any statute of limitation affecting the Association's right of action against a Declarant or other person is tolled during the period described in Section 5.8(a)(ii) and during any extension of that time because a person to which notice was directed has commenced and is diligently pursuing the remediation plan.
- (b) After the time described in Section 5.8(a)(ii) expires, whether or not the Association agrees to any remediation plan, a proceeding may be instituted by:
 - (i) the Association against a person to which notice was directed which fails to submit a timely remediation plan, the plan of which is not acceptable, or which fails to pursue diligent implementation of that plan; or
 - (ii) An Apartment Owner with respect to the owner's Apartment and any limited common elements assigned to that Apartment, regardless of any action of the Association.
- (c) This Section 5.8 does not preclude the Association from making repairs necessary to mitigate damages or to correct any defect that poses a significant and immediate health or safety risk.
- (d) Subject to the other provisions of this Section 5.8, the determination of whether and when the Association may institute a proceeding described in this section may be made by the Board of Directors. The Declaration may not require a vote by any number or percent of Apartment Owners as a condition to institution of a proceeding.
- (e) This Section 5.8 does not prevent the Association from seeking equitable relief at any time without complying with Section 5.8(a)(i) or (a)(ii).

ARTICLE 6

Insurance

6.1. Coverage. The Directors shall obtain and maintain, to the extent available, master policies of insurance of the following kinds, naming the Association, the Directors, all of the Apartment Owners and their mortgagees as insureds as their interests may appear:

- (a) Casualty or physical damage insurance on the buildings and all other insurable improvements forming part of the Property (including all of the Apartment but not including the furniture, furnishings and other personal property of the Apartment Owner therein, together with the service machinery, apparatus, equipment and installations located in the Buildings, and existing for the provision of central services or for common use, in an amount not less than eighty (80%) percent of their full replacement value (exclusive of foundations) as determined by the Directors in their judgment (and all policies shall therefor contain a replacement cost valuation endorsement, so-called, or the equivalent) against (1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, together with coverage for the payment of common expenses with respect to damaged Apartments during the period of reconstruction, and (2) such other hazards and risks as the Directors from time to time in their discretion shall determine to be appropriate, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, boiler and machinery explosion or damage, and plate glass damage. All policies of casualty or physical damage insurance shall provide (1) that such policies may not be canceled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including each Apartment mortgagee and (2) that the coverage thereof shall not be terminated for non-payment of premiums without thirty (30) days' notice to all of the insureds, including each Apartment mortgagee. Certificates of such insurance and all renewals thereof, together with proof

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of payment of premiums, shall be delivered by the Directors to all Apartment Owners and their mortgagees upon request, at least ten (10) days prior to the expiration of the then current policies.

(b) Comprehensive public liability insurance in such amounts and forms as shall be determined by the Directors, covering the Association, the Directors, all of the Apartment Owners and any Manager or managing agent of the Property, with limits of not less than a single limit of \$1,000,000 for claims for bodily injury or property damage arising out of one occurrence and a limit of \$100,000 for each occurrence and with cross liability endorsement to cover liability of any insured to other insureds.

(c) Workmen's compensation and employer's liability insurance covering any employees of the Association.

(d) Such other insurance as the Directors shall determine to be appropriate and such other insurance as may from time to time be required by law.

Such master policies shall contain (1) waivers of subrogation as to any claims against the Apartment Owner and their respective employees, agents and guests (2) waivers of any defense based on the conduct of any insureds, if available at premiums reasonably satisfactory to the Board of Directors, and (3) provisions to the effect that the insurer shall not be entitled to contribution as against casualty insurance which may be purchased by individual Apartment Owners as hereinafter permitted, if available at premiums reasonably satisfactory to the Board of Directors.

Each Apartment Owner or their mortgagee may obtain additional insurance at their own expense, provided that all such insurance shall contain provisions similar to those required to be contained in the Association's master policies waiving the insurer's rights to subrogation and contribution. If the proceeds from the master policies on account of any casualty loss are reduced due to proration with insurance individually purchased by an Apartment Owner, such Apartment Owner agrees to assign the proceeds of such individual insurance, to the extent of the amount of such reduction, to the Directors to be distributed as herein provided.

6.2. Use of Proceeds. Such master policies shall provide that all casualty loss proceeds thereunder shall be paid to the Directors as insurance trustees under these By-Laws. The sole duty of the Directors is to hold, use and disburse the same for the purposes stated in this Section and Section 18 of the Declaration. If repair or restoration of the damaged portions of the property is to be made, all insurance loss proceeds shall be held in shares for the Association and the Owners of damaged Apartments in proportion to the respective costs of repair or restoration of the damaged portions of the Common Areas and Facilities and of each damaged Apartment, with each share to be disbursed to defray the respective costs of repair or restoration of the damaged Common Areas and Facilities and damaged Apartments: provided however, that if such proceeds are insufficient to meet the entire cost of repair or reconstruction of the property, the same shall be applied first to repair or reconstruction of the Common Areas and Facilities, as provided in said Section 18. Any excess of any such share of proceeds above such costs of repair or restoration shall be paid to the Association or Apartment Owner for whom held upon completion of repair or restoration. If, pursuant to said Section 18 restoration or repair is not to be made, all insurance loss proceeds shall be held as common funds of the Association and applied for the benefit of Apartment Owner, as provided in said Section 18.

Article 7
Miscellaneous

Section 7.1. Amendments. Except as otherwise provided herein, these Bylaws may be amended by affirmative vote of at least sixty-seven percent (67%) of the Apartment Owners entitled to vote on the matter.

Section 7.2. Amendments to Declaration. Amendments to the Declaration that are required by the Act to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any Officer designated for that purpose or, in the absence of designation, by the President. Amendments to the Declaration may only be made in accordance with the Declaration and with the Act.

Section 7.3. Notices. All notices, demands, bills, statements or other communications shall be in writing and shall be deemed to have been duly given if delivered to an Apartment Owner in accordance with Section 2.6, and if delivered to the Association or the Board of Directors, if hand delivered or sent postage prepaid to the principal office of the Association or at such other address as shall be designated in writing to the Apartment Owners pursuant to this paragraph.

Section 7.4. 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 Bylaws or the intent of any provisions thereof.

Section 7.5. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 7.6 Effective Date. These Bylaws shall take effect upon passage and adoption by the Association, and shall thereafter completely replace the bylaws of the Association in effect prior thereto. By his signature below, the President certifies that these Bylaws were accepted and adopted by the Association at a duly warned meeting held on _____, 2012 and that this is a true and accurate copy of the Bylaws of the Association.

By: _____
Name:
Title: President