

ARTICLE I

DEFINITIONS

Section 1.1 “Association” shall mean and refer to McKendall Estates Homeowners Association, Inc. – Phase I, a nonprofit corporation organized and existing under the laws of the State of Louisiana.

Section 1.2 “Board” shall mean and refer to the Board of Directors of McKendall Estates Homeowners Association, Inc. – Phase I.

Section 1.3 “Properties” shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions, and Restrictions (the “Declaration”), and such additional land as may hereafter be brought within the jurisdiction of the Association.

Section 1.4 “Owner” shall mean and refer to the record owner, whether one or more persons entities, of the fee simple title to any Lot which is a part of the Properties, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.5 “Common Area” shall mean all property owned by the Association for the common use and enjoyment of the Owners.

Section 1.6 “Declarant” shall mean and refer to *McKendall Estates Construction Company*, its successors and assigns.

Section 1.7 “Declaration” shall mean and refer to the Declaration of Covenants applicable to the “Act of Restrictions” as recorded in the Conveyance Office for the Parish of Orleans, State of Louisiana, witnessed by William P. Curry, Notary and Alan R. McKendall, Developer of McKendall Estates Construction Company.

Section 1.8 “Architectural Standards” shall mean and refer to the architectural standards and construction regulations set forth in the “Act of Restrictions” (Article One, No. 22) recorded in the Conveyance Office for the Parish of Orleans, State of Louisiana.

Section 1.9 “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties used or zoned for use for residential purposes and shall not include the Common Areas and as otherwise defined in the Declaration.

Section 1.10 “Member” shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE II

OFFICE OF THE ASSOCIATION

Section 2.1 *Registered Office* – The registered office of the Association shall be as designated in the Articles of Incorporation of the Association filed with the Secretary of State for the State of Louisiana, as it may be changed from time to time.

ARTICLE III

PURPOSES

The objectives of this Association shall be:

Section 3.1 To implement through joint efforts of all owners of single-family dwellings located within McKendall Estates, New Orleans, Louisiana, an exemplary community which will combine change with tradition and beauty with functional advancement, while preserving the natural serenity of the neighborhood in which it is situated.

Section 3.2 To achieve a high quality of life for those residing in McKendall Estates Subdivision through joint effort.

Section 3.3 To maintain, through joint effort, the beautification of individual property; the safety and security of homeowners, children, and property; effective traffic safety measures to protect pedestrians, vehicle users of public roadways and personal property adjacent to such roadways.

Section 3.4 To maintain cooperative efforts with neighboring homeowner associations.

Section 3.5 To promote effective measures to improve common services including fire protection and garbage collection, and the improvement of the furnishing of water, gas, telephone, electricity service, and police protection.

ARTICLE IV

MEMBERSHIP & VOTING RIGHTS

Section 4.1 *Qualifications* - All owners of one or more Lots of the Property shall be Members of the Association, a non-profit corporation organized and existing under the authority of The Homeowner Association Acts.

Section 4.2 *Dues* – All members of the Association are subject to annual and special dues as approved by the Association members.

Section 4.3 *Member in Good Standing* – Only property owners whose dues are paid in full will be entitled to any rights and privileges of membership in the Association, including but not limited to, attendance at any general, special or committee meetings of the Associations, as well as voting privileges.

Section 4.4 *Covenants* – All members of the Association shall abide by the “Act of Restrictions” as recorded in the office of William P. Curry, Notary, dated October 7, 1998, City of New Orleans, State of Louisiana, and such subsequent restrictions applying to all sections throughout McKendall Estates Subdivision.

Section 4.5 *Majority* – As used in these Bylaws, the term “Majority of Members” shall mean members holding two-thirds (2/3) percent of the votes of the Association entitled to be cast.

Section 4.6 *Quorum* – Members holding two-thirds (2/3) of the votes entitled to be cast, represented in person or by proxy, (minimum of 23 members) shall constitute a quorum for voting on matters brought before the Association at all annual and special meetings of members. In the event a quorum is not present, then notification of a meeting for the same purposes within two (2) to four (4) weeks shall be sent by mail. The members in good standing present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members in good standing to leave less than a quorum.

Section 4.7 *Proxies* – Votes may be cast in person or by written proxy. No proxy shall be valid after eleven (11) months from the date of its execution unless specifically provided in the proxy. All proxies must be filed with a member of the Board of the Association prior to the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE V

OFFICERS AND RESPONSIBILITIES

Section 5.1 *Designation* – The officers of the Association shall be a President, Vice President, Secretary, Assistant Secretary, and Treasurer, all of whom shall be elected by the general body of the Association. In addition, each of these officers shall constitute the Board of Directors. The collective responsibilities of the officers shall include (a) the duties and powers to conduct business and administer the affairs of the Association; (b) the Officers may perform such acts as long as they do not conflict with the Bylaws of the Association and the laws of the State of Louisiana, Parish of Orleans, City of New Orleans; (c) to employ independent contractors; (d) to enter into contracts for professional services, such as accountants, insurance brokers; (e) to set, collect and disburse annual and special assessments.

Section 5.2 *Election of Officers* – The Officers of the Association shall be elected annually by the membership at the organizational meeting.

Section 5.3 *Resignations and Removal of Officers* – At any annual or special meeting of the members duly called, any one or more of the Directors may be removed with or without cause by the vote of a Majority of Members, and a successor may then and there be elected by a Majority of Members to fill the vacancy thus created. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.4 *Vacancies* – A vacancy in any office because of the death, resignation, removal, disqualification or otherwise of the Officer previously filling such office may be filled by appointment of the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Office he replaces.

Section 5.5 *President* – The President shall be the Chief Executive Officer of the Association; shall preside at all meetings of the Association and of the Board; shall have all of the general powers and duties which are usually vested in the office of president of a Louisiana non-profit corporation, including but not limited to, the power to appoint committees from among the members from time to time, as the President may, in discretion, decide is appropriate to assist in the conducting of the affairs of the Association or as may be established by the Board or by the members at any regular or special meeting.

Section 5.6 *Vice President* – The Vice President shall have all the powers and authority and perform all the functions and duties of the President, in the absence of the President,

or due to the inability for any reasons to exercise such powers and functions or perform such duties, and also will perform any duties directed to perform by the President.

Section 5.7 *Secretary* – The Secretary shall keep all the minutes of the meetings of the Board and the minutes of all meetings of the Association; shall have charge of such books and papers as the Board may direct and shall, in general, perform all duties incident to the office of Secretary and those duties as provided in the Declaration and these Bylaws.

The Secretary shall compile and keep up to date, a complete list of members and their last known addresses as shown on the records of the Association. Such list shall be open to inspection by members and other persons lawfully entitled to inspect same at reasonable times.

Section 5.8 *Assistant Secretary* – The Assistant Secretary, shall have all the powers and authority to perform all the functions and duties of the Secretary in the absence of the Secretary or in the event of the Secretary’s inability for any reason to exercise such powers and functions or to perform such duties, and also will perform any duties directed to perform by the Secretary.

Section 5.9 *Treasurer* – The Treasurer shall have the responsibility to (a) collect and deposit, in the appropriate bank account, all monies of the Association; (b) disburse funds as directed and upon proper approval of the Association; (c) maintain accurate records of membership dues paid and unpaid; (d) maintain the financial and accounting records of the Association established in accordance with Generally Accepted Accounting Principles (GAAP); (e) provide the Officers of the Association with periodic statement of current delinquent dues in tandem with a Statement of Revenues and Expenses; (f) perform other duties as assigned by the President of the Association.

ARTICLE VI

COMMITTEES

Section 6.1 *Committees* – The Board by resolution adopted by a majority of the Directors, may designate one or more committees to assist it. Except as otherwise provided in such resolution, members of such Committee or Committees shall be members in good standing of the Association.

Section 6.2 *Term of Office* – Each member of a committee shall continue as such until the next annual meeting of the members of the Association or until his successor is appointed unless the Committee shall be sooner terminated, or unless such member be removed from such Committee, or unless such member shall cease to qualify as a member thereof.

Section 6.3 *Chairman* – One member of each Committee shall be appointed chairman by the President of the Association.

Section 6.4 *Vacancies* – Vacancies in the membership of any Committees may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 6.5 *Quorum* – Unless otherwise provided in the Declaration or the resolution of the Board designating a Committee, a majority of the whole Committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the Committee.

Section 6.6 *Rules* – Each Committee may adopt rules for its own government. Said Rules must be consistent with these Bylaws, the Declaration or with rules adopted by the Board.

Section 6.7 *Standing Committees* – Standing Committees shall be as follows: Architectural/ Review Committee, Finance & Audit Committee, Beautification Committee, Security & Safety Committee and Social Committee.

ARTICLE VII

MEETINGS

Section 7.1 *Association Responsibilities* – The members will constitute the Association, which will have the responsibility of administering and enforcing the covenants, conditions and restrictions contained in the Declaration, including the collection and disbursement of charges and assessments created therein, through the Board. In the event of any dispute or disagreement between any members relating to the Properties, or to any question of interpretation or application of the provisions of the Declaration, Articles of Incorporation or these Bylaws, such dispute or disagreement shall be submitted to the Board. The determination of such dispute or disagreement by the Board shall be binding on each and all such members, subject to the right of members to seek other remedies provided by law after such determination by the Board.

Section 7.2 *Place of Meetings* – The meetings of the Association shall be held at such suitable place, convenient to the members, as the Board may determine.

Section 7.3 *Annual Meetings* - At such meetings there shall be elected by ballot of the owners a Board of Directors in accordance with the requirements of these Bylaws and the Declaration. The owners may also transact such other business of the Association as may properly come before them.

Section 7.4 *Special Meetings* - It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board, or upon written request of the members in accordance with established voting guidelines established in Article IV.

Section 7.5 *Notice of Meetings* - It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, together with a complete agenda, to each Owner of record, at least 21, but not more than 30 days prior to such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

Section 7.6 *Order of Business* – The order of business at meetings of the Association shall be as follows:

- (a) Roll call and certifying proxies (i.e., for conducting business, elections, and establishing quorums, etc.);
- (b) Reading and disposition of unapproved minutes;
- (c) Reports of Officers;
- (d) Reports of Committees;
- (e) Election of Directors;
- (f) Unfinished Business;
- (g) New Business;
- (h) Adjournment.

ARTICLE VIII

FISCAL MANAGEMENT

Section 8.1 *Fiscal Year* – The fiscal year of the Association shall be a Calendar year and as such shall begin on the first day of January of each year.

Section 8.2 *Books, Accounts and Records* – All funds received from the Association members shall be deposited to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may select. The funds and expenditures of the members by and through the Association shall be credited and charged to accounts under the following classifications as shall be appropriate:

(a) Normal operating expenses, which shall include all funds and expenditures within the year for which the funds are budgeted, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves and to additional improvements.

(b) Reserve for maintenance, repair and/or replacement relating to Common Areas that shall include funds for maintenance, repair or replacement required because of damage, wear or obsolescence.

The President and the Treasurer shall sign disbursements by check or other instruments to satisfy indebtedness issued in the name of the Association. The President shall assign alternate signatories at his/her discretion. In the event they are unable to execute documents, any two members of the Board of Directors may act in their absence.

The Treasurer shall accurately maintain all books, accounts, and records in the format of Generally Acceptable Accounting Principles (GAAP) as they relate to the revenues and expenses, assets and liabilities of the Association. All books, accounts, and records shall be made available for examination to any Officer of the Board of Directors, members of the Association or their duly authorized agents or attorneys, at a reasonable time and place.

At the end of the calendar year, with reasonable time for preparation to close the books, the President shall cause an audit of the books and records of the Association.

At the end of the Treasurer's term, all books, recorded notations, budgets both past and present, shall be forwarded to the new office holder.

Section 8.3 *Budget* – The Board of Directors shall from time to time and at least annually, prepare a budget for the Association, determine the amount of Assessments payable by the Members to meet the Common Expenses of the Association, and allocate

and assess such expenses among the Members in accordance with the provisions of the Declaration. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. The purposes of such accounts shall include, but not be limited to, periodic maintenance, repair, improvements to and replacement of the Common Property and all other property that the Association is obligated to maintain. The budget shall be adopted upon a majority vote of the Directors present at a meeting of the Board at which a quorum is attained. Each Member will be provided with a copy of the budget or notice that the budget is available upon request at no charge. See Article IX, *Assessments and Liens*.

Section 8.4 *Fidelity Bonds, Proviso* – Fidelity bonds may be required by the Board from all Directors, Officers, employees, mid agents of the Association handling, controlling, disbursing, or otherwise responsible for the Association’s funds, and from any contractor handling or responsible for the Association’s funds. The amount of such bonds shall be determined by the Board of Directors, in accordance with the provisions of the Declaration.

Section 8.5 *Audit* – An audit of the accounts of the Association may be made from time to time as directed by the Board of Directors. A copy of any audited report received as a result of an audit, shall be furnished to each Member of the Association not more than thirty (30) days after receipt by the Board of Directors.

Section 8.6 *Tax Election* – The Association shall, through officers designated by the Board of Directors, file the necessary annual election to become a “Homeowners Association” as defined in the Internal Revenue Code of 1986, Section 528, or similar provisions of corresponding law subsequently enacted, exempt from income tax as therein provided. The Association shall be operated at all times to maintain its eligibility for tax-exempt status.

ARTICLE IX

ASSESSMENTS AND LIENS

Section 9.1 *Assessments* – Funds for the payment of Common Expenses shall be assessed against the Members in the proportions or percentages provided in the Declaration. For each year thereafter, the Board shall fix the amount and the due date of the Annual Assessment. Initially, Annual Assessment shall be payable in one Annual installment. The Board of Directors shall notify the Owners of each Lot of the amount, the

date which the Assessments are payable and the place of payment of Annual Assessments shall be uniform.

Section 9.2 *Purpose of Assessments* – Subject to the terms of the Declaration, the assessments levied hereunder by the Association shall be used exclusively for the purpose of protecting and promoting the comfort, collective mutual enjoyment, health, safety and welfare of the Owners, including but not limited to, the following:

- (a) The maintenance, repair or replacement of any and all Common Area improvements along with the cost of any associated management or supervisory services, fees, labor, equipment, and materials;
- (b) The special maintenance, repair or replacement of improvements located in Common Areas;
- (c) The design, purchase and installation of any Common Area improvements;
- (d) The purchase of insurance coverage relating to Common Areas and any improvements thereon, and other property of the Association;
- (e) The carrying out of duties of the Board as provided herein and in the Declaration and Articles of Incorporation of the Association;
- (f) The carrying out of purposes of the Association as stated herein and in the Declaration and its Articles of Incorporation; and
- (g) The carrying out of all other matters set forth or contemplated in the Declaration.

Section 9.3 *Annual Budget and Annual Assessments* – Subject to the provisions of the Declaration, each fiscal year the board shall adopt an annual budget based upon the amount of the annual assessment to be levied for the next year, taking into consideration Association operating costs for the then current year, expected normal increases in such costs over the next year, and additional future needs of the Association, including the establishment and maintenance of an Association reserve fund as provided for herein. The Annual Budget shall be adopted by the Board of Directors no later than fifteen (15) days prior to the commencement of each fiscal year. Notwithstanding the above, in the event the Board fails for any reason to adopt an annual budget covering the succeeding fiscal year, then and until such time as an annual budget shall have been adopted for such succeeding fiscal year, the annual budget currently in effect shall continue and the annual

assessment shall be deemed the same as for the current year. Procedures for levying and payment of the annual assessment are set forth in the Declaration.

Section 9.4 *Special Assessments* – In addition to the annual assessments, the Association may levy in and for any year, applicable to that year only, a special assessment, subject to the provision of the Declaration. Procedures for levying and payment of a special assessment are set forth in the Declaration.

Section 9.5 *Special Member Assessments* – In addition to the annual assessments and any special assessments, the Association, by vote of its Board, may levy a special member assessment on any member for the purpose of:

(a) Paying the cost of any unexpected damage or loss requiring maintenance, repairs, or replacement of improvements associated with a Common Area (and not owned by the member causing such damage or loss), which damage or loss has been determined by the Board to have been caused, either directly or indirectly, by the willful or negligent acts of such member, or its agent, the occupant of the property, or a visitor to the member's property. In reaching a decision to levy such special member assessment upon any member, the Board shall first determine, in its sole discretion, that reasonable evidence exists to support a determination that said damage or loss was caused, directly or indirectly, by a particular member, or its agent, occupant, or visitor. Prior to making such determination, the Board shall inform such member of its findings and afford the member the reasonable opportunity (not less than seven (7) days) to (i) introduce evidence regarding such damage or loss and the cause thereof; or (ii) remedy such loss or damage.

(b) Reimbursing the Association for any and all direct or indirect costs incurred by the Association with regard to the maintenance, repair or replacement of any improvement situated on any property within the Properties owned by such member, when –

i. It has been determined by the Board that the maintenance, repair or replacement of such improvements has been neglected to the point where conditions existing on such member's property are not in conformance with the maintenance obligation set forth in the Declaration.

ii. The member owning such property shall have been informed in writing of deficiencies found to exist and shall have been afforded a specific and reasonable period of time (not less than seven (7) days) to respond to said notice and/or remedy such deficiencies, the determination of what constitutes a reasonable period of time for remedial action to be made by the Board in its sole discretion;

iii. Those deficiencies determined by the Board and reported in writing to the member owning such property are not fully corrected within the time period established by the Board for such corrective action to be completed; and (iv) Due to the failure of the member owning such property to take corrective action within the period of time established by the Board, it has been necessary or appropriate for the Association to contract for, initiate or complete such corrective action to meet the maintenance requirements of the Declaration. In the event such member shall start corrective action on an improvement after the Association has either contracted for such work to be done or actually accomplished such work in whole or in part, such member shall be obligated to the Association for the reimbursement of any costs actually incurred by the Association, including: release from contract settlements; design, legal or other professional fees; labor, equipment, materials or guarantees required to accomplish corrective work; management or supervisory services; and any other costs directly or indirectly attributable to the work.

Section 9.6 *Violation by Member (Remedies/Resolution)* – In the event of a violation (other than the nonpayment of an Assessment) by a Member of any of the provisions of the Declaration, the Articles, these By-Laws, or any Rules and Regulations adopted pursuant to the same, as the same may be amended or added to from time to time, the Association by direction of its Board of Directors, may notify the Member by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of fifteen (15) days from the date of the notice, the Association, through its Board, shall have the right to treat such violation as an intentional, inexcusable, and material breach of the Declaration, Articles, these By-Laws, or the Rules and Regulations, and the Association may then pursue any remedy available. The Association may levy a fine for each violation.

Any violations which are deemed by the Board to be a hazard to public health or safety may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the Member as a specific item, which shall be a lien against said Lot with the same force and effect as if the charge was part of the Common Expenses attributable to such Member.

Section 9.7 *Enforcement and Personal Obligation of Owners For Payment of Assessments* –

The annual assessments, special assessments, and special member assessments provided for herein shall be the personal and individual debt of each Owner. No Owner may, for any reason, exempt itself from liability for such assessments levied in accordance with the provisions of the Declaration and these Bylaws. In the event that any assessment or installment thereof is not paid when due, and remains unpaid for a period of thirty (30) days thereafter, then the unpaid amount of any such assessment or installment thereof shall be considered delinquent and shall together with interest thereon and costs of collection thereof become a continuing personal obligation, and debt of the non-paying

Owner secured by a self-executing lien on the property covered by the assessment or installment thereof, including all improvements thereon, with priority as of the due date of such assessment.

The Association shall have the right to reject any partial payment of any assessment or installment thereof and demand full payment thereof, or the Association may, in its sole discretion, elect to accept any such partial payment on account only, without waiving any rights established hereunder with respect to any remaining balance due.

The obligation of any Owner to pay any assessment imposed on a property during such Owner's period of ownership shall remain his personal obligation, and a sale or other transfer of title to such property shall not release such former Owner from said liability notwithstanding an assumption of liability by the purchaser or transferee. The lien for any unpaid assessments shall be unaffected by any sale or transfer of full or partial ownership interest in a property, and shall continue in full force and effect. In the event of full or partial sale or transfer of an ownership interest in a property, it shall be the sole obligation of the Owner selling or transferring such interest (and not the Association) to disclose to any buyer, or transferee that an unpaid assessment and associated lien against the ownership interest exist prior to that date at which such sale or transfer is to be consummated (provided that any such buyer or transferee or any Beneficiary may request from the Association a certificate setting forth any delinquent assessments). A copy of such disclosure shall be sent to the Association at the same time.

Upon written request, the Association shall provide an Owner with a statement reflecting the amount of any unpaid or delinquent assessments with respect to a property owned by said Owner. The Board may elect to retain the services of an attorney of its choice for the purposes of collecting any unpaid assessment or installment thereof, and interest charges thereon, and/or to foreclose the lien against the property subject thereto and/or to pursue any other legal or equitable remedy which the Association may have and there shall be added to the amount of unpaid assessment or installment thereof and interest charges thereon, any and all collection costs incurred by the Association, whether judicial or non-judicial, and including, but not limited to, reasonable attorney's fees and costs of legal suit.

Section 9.8 *Lien and Foreclosure* – All sums assessed in the manner provided in these Bylaws or the Declaration, together with all interest costs and costs of collection, shall be secured by the lien provided for under these Bylaws and the Declaration. As further evidence and notice of such assessment lien, the Association may prepare a written notice of such lien setting forth the amount of delinquent indebtedness, the name of the Owner whose property is covered by such lien, and a description of the property. Such notice shall be signed by a duly authorized Officer of the Association and shall be recorded in the Property Records of Orleans Parish, State of Louisiana, or such other place as may be

required by law for the recording of liens affecting real property at such time as such notice is recorded. Such lien for payment of assessments shall be superior to all other liens and charges against said property except as provided in Section 9.8 – *Lien Subordination*, below and may be enforced after recording said notice through (i) foreclosure of such lien on the property and any improvements thereon in like manner as a mortgage on real property, (ii) suit against the owner personally obligated to pay the assessment, and/or (iii) foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses and reasonable attorney’s fees incurred by the Association. The Association shall have the power to bid on the property being foreclosed.

Section 9.9 *Lien Subordination* – Any lien established as provided for in these Bylaws or the Declaration, shall be subordinate and inferior to (i) any mortgage or deed of trust of record against the Property which secures sums borrowed for the purchase of improvement of the property in question, and (ii) tax liens; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a foreclosure sale (whether public or private) of any such property pursuant to the terms and conditions of any such mortgage or deed of trust or through any tax lien. Such foreclosure sale shall not relieve any new owner taking title at such sale from liability for the amount of any assessments thereafter becoming due or from a lien arising from any such subsequent assessment.

At the time any mortgage financing or refinancing is obtained for any property, which will be superior to any existing or future assessment lien of the Association, the Owner of such property shall within thirty (30) days prior to the consummation of any such mortgage or financing, deliver to the Association written notice identifying the Beneficiary making such mortgage loan in terms of its full legal name, its current address and telephone number, and the name of an officer or other person within the entity who is responsible for that particular loan account. Upon the written request of any such beneficiary holding a superior lien on any property as provided herein, the Association shall report to such Beneficiary any unpaid assessments that are delinquent as herein defined. The Association may from time to time, at its own initiative elect to report delinquent assessments to any such Beneficiary.

ARTICLE X

INDEMNIFICATION

Section 10.1 *Indemnification* – As described in and in addition to the powers of indemnification set forth in the Declaration, the Association shall have the power to

indemnify and to reimburse or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person, who is or was an officer, director, committee member, employee, servant or agent of the Association, or who is or was serving at the request of the Association as an officer, director, partner, venturer, proprietor, trustee, employee, servant, agent or similar functionary of another corporation, partnership, association, joint venture, sole proprietorship, trust or other enterprise against any liability asserted against him and incurred by him in such a capacity or arising out of his status as such a person, to the maximum extent allowable by law.

The provisions of this Section 10.1 shall not be deemed exclusive of any other rights to which such person may be entitled under any bylaw, agreement, insurance policy, vote of members in good standing of the Association or otherwise. Indemnification under the preceding paragraph shall be made by the association only as authorized in each specific case upon the determination that indemnification of such person is proper under applicable law. Such determination shall be made:

(a) by the Board, by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding; or

(b) if such a quorum is not obtainable, by (i) independent legal counsel in a written opinion, or (ii) the members in good standing of the Association and no member shall be disqualified from voting because he/she is or was a party to any such action, suit or proceeding unless such member is also a Director.

Indemnification so determined may be paid, in part, before the termination of such action, suit or proceeding upon the receipt by the Association of an undertaking by or on behalf of the person claiming such indemnification to repay all sums so advanced if it is subsequently determined that he is not entitled thereto as provided in this Article.

To the extent that a Director or Officer of the Association has been successful on the merits or otherwise in the defense of any action, suit or proceeding whether civil or criminal, such person shall be indemnified against such expenses (including costs and attorneys' fees) actually and reasonably incurred by him in connection therewith. Indemnification provided herein shall be exclusive of any and all other rights and claims to which those indemnified may be entitled as against the Association and every Director, Officer, employee or agent thereof under any Bylaw, resolution, agreement or law and any request for payment hereunder shall be deemed a waiver of all such other rights, claims or demands as against the Association and each Director, Officer and employee thereto. The indemnification provided herein shall inure to the benefit of the

heirs, executors, administrators and successors of any person entitled thereto under the provisions of this Article.

The Association may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as an expense subject to a special assessment; provided however, that nothing contained in Article X shall be deemed to obligate the Association to indemnify any member who is or has been a Director or Officer of the Association with respect to any duties or obligations assumed or liability incurred by him under and by virtue of the Declaration and these Bylaws that were assumed or incurred outside of his conduct specifically related to the fulfillment of his duties as an Officer or Director of the Association.

Section 10.2 *Other* – The members, Board, Officers or representatives of the Association shall enter contracts or other commitments as agents for the Association, and they shall have no personal liability for any such contract or commitment (except such liability as may be ascribed to them in their capacity as Owners.)

ARTICLE XI

AMENDMENTS TO BYLAWS

Section 11.1 *Amendments to Bylaws* – The power to alter, amend or repeal these Bylaws, or to adopt new Bylaws has been delegated by the members to the Board, who may exercise this power at any regular or special meeting of the Board. These Bylaws may be amended in writing by a majority of the Board.

Section 11.2 *Changes to Bylaws* – Any action or changes to the Bylaws shall be distributed to all members of the Association within ninety (90) days of such action, change or revision, or such action is null and void.

Section 11.3 *Repealing the Bylaws* – Any action of the Board regarding making, amending or repealing the Bylaws of the Association may be overruled by two-thirds (2/3) of the voting members of the Association at any regular or special meeting convened for that purpose after notice to the voting members.