



THE BYLAWS

OF THE

PONDSIDE HOMEOWNERS ASSOCIATION, INC.

As Amended Through May 20, 2002

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The BYLAWS OF THE PONDSIDE HOMEOWNERS ASSOCIATION, INC.

Article I. NAME AND LOCATION

The name and location of the Corporation is Pondside Homeowners Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at the Pondside Condominium Clubhouse, but meetings of members and directors may be held at such places within the State of New York, County of Westchester, as may be designated by the Board of Directors.

Article II. DEFINITIONS

Section 1. Association

"Association" shall mean and refer to the PONDSIDE HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND ASSIGNS.

Section 2. Condominium

"Condominium" shall mean and refer to that certain real property of approximately 4.0426 acres of land described on Schedule A to the respective Declarations and comprising Pondsides Village I Condominium, Pondsides Village II Condominium, Pondsides Village III Condominium and Pondsides Club West Condominium

Section 3. Property

"Property" shall refer to the 13.7898 acres of land comprising the Homeowners Association Property consisting of Recreational Facilities, Roadways, two man made ponds, landscaping, outside parking areas and Common Areas, as shown on the Map entitled "The Apportionment Map of the site Plan for the Pondsides Condominiums and The Apportionment Map of Phase II of the Site Plan for the Pondsides Condominiums."

Section 4. Declarations

"Declarations" shall mean and refer to the respective Declarations Establishing a Plan for Condominium Ownership of Premises known as PONDSIDE VILLAGE I CONDOMINIUM, PONDSIDE VILLAGE II CONDOMINIUM, PONDSIDE VILLAGE III CONDOMINIUM and CLUB WEST CONDOMINIUM, Stadium Road, White Plains, New York, pursuant to Article 9-B of the Real Property Law of the State of New York, recorded in the Office of the County Clerk (Division of Land Records), County of Westchester, State of New York, as the same shall be amended from time to time, and the Declaration of Covenants and Restriction which the Sponsor has recorded in the Westchester County Clerk's Office, Division of Land Records, which imposes certain restrictions on the im-

provement of the Development, imposes certain obligation of the Association regarding ownership and maintenance of the Common Areas, grants certain easements and rights of use and access to Unit Owners and provides for certain rights of approval and monitoring of maintenance by the Town of Greenburgh.

Section 5. Declarant

"Declarant" or "Sponsor" shall mean and refer to MARSAM DEVELOPMENT, INC., its successors and assigns.

Section 6. Unit

"Unit" shall mean a part of the property to be owned exclusively by a unit owner for occupancy when the property is submitted to condominium ownership. The units consist of townhouse units located in the clusters as shown on the Site Plan for Pondside and apartment units located in the four story apartment building.

Section 7. Unit Owner

"Unit Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to a Unit which is located on the Property, including contract seller, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. Permitted Lessee and Occupant

"Permitted Lessee and Occupant" shall mean and refer to a lessee and occupant of a Unit who regularly reside therein, the Owner of which Unit has complied with the provisions of Article XI, Section 1 of the bylaws of PONDSIDE VILLAGE I CONDOMINIUM, PONDSIDE VILLAGE II CONDOMINIUM, PONDSIDE VILLAGE III CONDOMINIUM, and PONDSIDE CLUB WEST CONDOMINIUM. All permitted Lessees and Occupants shall be delegated the right to use the Association Property by the Owner of the Unit.

Section 9. Association Property

"Association Property" shall mean and refer to the recreational facilities, common areas, roads, two manmade ponds, outside parking areas and other property, as described in the Offering Plan.

Section 10. Recreational Facilities

"Recreational Facilities" shall mean and refer to the property as aforementioned in Section 3 of this Article.

Section 11. Card

"Card" shall mean the Association membership card.

Section 12. Members

"Members" shall mean the Members of the Association, from time to time, who shall be the Owners of Units. The term "Member" shall mean one of such Members.

Section 13. Pro Rata Share

"Pro Rata Share" shall mean the ration that the number of Units owned by each Member bears to the total number of Units owned by all members.

Article III. PURPOSE

Section 1. Purpose

The Purpose of the Association shall be to own, operate, maintain, manage and control the Recreational Facilities and other Property, and render such other services to its Members as may be provided in the Certificate of Incorporation, the Declaration, these bylaws, or as the Board of Directors may undertake in the future.

Section 2. Activities

The activities of the Association shall include, but shall not be limited to the following:

- A. Owning, operating, managing, maintaining and controlling the Recreational Facilities; Common Areas, Roadways and other property as shown on the Subdivision Map.
- B. Maintaining (including snow plowing and street light maintenance) the outdoor parking areas, the walks, and the roads of the Association Property.
- C. Fixing and enforcing driving and parking regulations on the roads of the Association Property; and
- D. Maintaining all utilities on the Association Property, other than those owned and operated by public utility companies.

Article IV. MEMBERSHIP

Section 1. Membership

Each Unit will have one (1) membership appurtenant thereto. The Association will have a maximum number of Members equal to the number of Units which the Town of Greenburgh permits on the Property. Such Members shall be the Owners of the Units located on the Condominium Property.

If a Unit is owned by two or more persons or entities, all of such persons or entities shall be entitled in the aggregate to one membership and the rights and privileges appurtenant thereto.

Members shall have, upon dissolution or liquidation of the Association, only such distributive rights relating to any fees, dues and assessments paid by them as the Not-for-Profit Corporation Law of New York may confer upon them.

Section 2. Privileges of Membership

Membership in the Association shall entitle the Member to equal use of the Association Property, except that such use shall be delegated to the Permitted Lessees and Occupants of such Member's Unit, and such use shall also be available to the other residents in the Units

to which the membership is appurtenant and the Member's guests, subject, whoever, to the rules, regulation, limitation and condition which may from time to time be imposed by the Board of Directors of the Association for the mutual benefit of all Members, including limitations on guest privileges and a charge for guest privileges. A Member and a Member's Permitted Lessees and Occupants shall be responsible for compliance with such rules and regulations by their guests and immediate family and liable for damage caused by them to the Association Property.

Section 3. Membership Cards

Membership in the Association and all the rights and privileges appurtenant thereto shall be evidenced by a membership card. The fact that the Association is a not-for-profit corporation and that any such card is not transferable shall be noted conspicuously on the face or back of any card. Such card shall bear the signature or facsimile signature of the Office or Officers designated by the Board of Directors and may bear the seal of the Association or a facsimile thereof.

Section 4. Membership Rolls

The Board of Directors shall maintain a book containing the names of the record Owners and Permitted Lessees and Occupants of Units and upon notification from the Member or transferee of such Member, appropriate adjustments shall be made in the membership rolls.

Section 5. Voting Rights

One vote on all matters put to a vote shall be appurtenant to each membership certificate. No membership in the Association or title to any Unit may be transferred without the other.

Section 6. Proxy Representation

Every Member may authorize another person or persons to act for him by proxy in any or all matters in which a Member is entitled to participate, whether by waiving notice or any meeting, voting or participating at a meeting, or expressing consent or dissent without a meeting. Every proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it prior to the vote of such proxy, except as otherwise provided by the Not-for-Profit Corporation Law.

Article V. MEETING OF THE MEMBERS

Section 1. Meetings of Members

Each annual meeting of the Members shall be held during the month of October until changed by the Members, on a date determined by the Board of Directors.

Section 2. Special Meetings

Special Meetings of the Members may be called at any time by written request of twenty five (25%) percent of the entire membership, or by any two members of the Board of Directors of the Association.

Section 3. Notice

Written Notice of each meeting, regular or special, shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen days before such meeting to those parties listed in the membership rolls. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Notice of a meeting need not be given to any Member who submits a signed waiver of notice before or after the meeting. The attendance of a Member at a meeting without protesting prior to the conclusion of the meeting the lack of notice of such meeting shall constitute a waiver of notice by him.

Section 4. Quorum

The presence, in person or by proxy, at the meeting of Members having 25% of the total number of votes of all members shall constitute a quorum for any action except as otherwise provided in the Certificate of Incorporation, the Declaration, or these bylaws. If, however, such quorum shall not be present at any meeting, the parties entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 5. Action of Members

Except where otherwise specifically provided herein, every act or decision done or made by a majority of the votes of the Members cast a duly held meeting at which a quorum is present shall be regarded as an act of the Members.

Section 6. Action Taken Without a Meeting

The parties who are entitled to vote shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of such parties. Any action so approved shall have the same effect as though taken at a meeting.

Article VI. BOARD OF DIRECTORS

Section 1. Number

The affairs of the Association shall be managed by seven (7) not (9) directors, 1 member from the Board of Managers of Pondside Village I Condominium, 1 member from the Board of Managers of Pondside Village II Condominium, 3 members from the Board of Managers of Pondside Village III Condominium and 2 members from the Board of Managers of Pondside Club West Condominium, all of whom need be Members of the Association.

Section 2. Selection

The representatives of each of the Condominiums to serve on the Board of Directors shall be chosen by the Board of Managers of the respective Condominiums who shall choose from among the members of the respective Condominiums who shall choose from among the members of the respective Board of Managers an appropriate number to be jointly des-

ignated to sit on the Board of Directors of the Homeowners Association in the proportions set forth above.

Section 3. Removal and Replacement

A director may be removed from the Board, at will and without cause, by a majority vote of the Members by whom he or she was elected. In the event of death, resignation or removal of a Director, his or her successor shall be elected by the Members who elected the predecessor Director, and such successor shall serve for the unexpired term of designated by the Sponsor and/or Sponsor-Affiliate shall entitle the Sponsor to designate a successor.

Section 4. Term

All Directors shall be elected for a term of one (1) year (except as set forth in Section 2 of this Article) and until the election of their successors.

Section 5. Compensation

No Director shall receive compensation for any service rendered to the Association as such, except that a Director who, at the request of the Board of Directors, serves as a manager or managing agent for the Association, shall receive compensation therefore, as agreed to between the Board and such Director. However, any Director may be reimbursed for actual expenses incurred in the performance of duties as a Director.

Section 6. Action Taken Without a Meeting

The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 7. Regular Meetings of Directors

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 members of the Board of Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each member of the Board, by mail or telegraph, at least three (3) business days prior to the day named for such meeting. Regular meetings are open and may be attended by all Members of the Association.

Section 8. Special Meetings

Special meetings of the Board of Directors may be called by the president of three (3) business days notice to each member of the Board of Directors, given by mail or telegraph, 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 at least three (3) members of the Board of Directors.

Section 9. Waiver of Notice

Any member of the Board of Director may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the

Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 10. Quorum

The presence at the meeting of a majority of the Directors shall constitute a quorum for any action except as otherwise provided in the Certificate of Incorporation, the Declaration, or these bylaws. If, however, such quorum shall not be present at any meeting, the Directors entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board.

Article VII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers

The Board of Directors shall have power to:

- A. Adopt and publish rules and regulations governing the use of the Recreational Facilities and the Association Property, and services to be provided by the Association, and to establish penalties for the infraction thereof;
- B. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these bylaws, the Certificate of Incorporation, or the Declaration;
- C. Take appropriate legal action, including suspension of membership privileges or the rights of a Member or of a Member's Permitted Lessees and Occupants, as the case may be, and the families of such Member or such Member's Permitted Lessees and Occupants to the use of any part or parts of the Association Property, during any period in which such Member shall be in default in the payment of any annual or special assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days, for violation of these bylaws or of published rules and regulations. The Board of Directors must suspend the rights of any Member or of a Member's Permitted Lessees and Occupants, as the case may be, to use the Association Property upon the request of the Board of Managers of the Condominium of which the Member's Unit is a part, provided such request is accompanied by written certification that the Member is in default in the payment of special charges or assessments for such membership privileges;
- D. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from (3) consecutive regular meetings;

- E. Employ a manager, managing agent, independent contractors, or such employees as are deemed necessary, and prescribe their duties, provided that any management agreement entered into on behalf of the Association shall continue for a term not exceeding three (3) years, and may be terminated by either party after one (1) year, upon 90 days prior written notice;
- F. Lease, sell, mortgage, encumber or otherwise dispose of property of the Association, or borrow money;
- G. Contract with the Sponsor and affiliated corporations or entities, at then competitive rates, without incurring any liability for self-dealing;
- H. Impose against any Unit Owner a one-time fine of fifty (\$50.00) dollars for any violation of any rule or regulation adopted by the Board of Directors, or the breach of any By-Law contained herein, or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, and enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 2. Duties

It shall be the duty of the Board of Directors to:

- A. Cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the annual meeting of the Members or at any special meeting of the Members when such statement is requested;
- B. Supervise all officers, agents and employees of this Association, and see that their duties are properly performed;
- C. Estimate the costs and expenses of operating the Association for the next succeeding year and accordingly prepare a budget for such next succeeding year;
- D. As more fully provided herein in Article X and in the Declaration:
 - (1) Fix the amount of the annual assessment against each membership card at least thirty (30) days in advance of each annual assessment period;
 - (2) Fix the amount of a special assessment, if required, in the event of a deficit in the annual operating budget of the Association. The assessment of such deficit shall be borne equally by the holder of the membership cards;
 - (3) Fix the amount of an assessment, if any, for capital improvements for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or repair or replacement of a described capital improvement;
 - (4) Send written notice of each assessment, annual, special or capital, to the holder of each membership card at least thirty (30) days in advance of its payment date, and in the case of the annual assessment the notice shall specify the required monthly payment to be made to the Association on account thereof;

- (5) Change and modify the budget and the corresponding annual assessment during any annual assessment period.
- G. Maintain, including painting, decorating, repairing and replacing, the Association Property. The approval of the Members shall not be required, regardless of the cost thereof, and such costs shall be charged to all the Members as part of the Association Expenses, except to the extent that the same are necessitated by the negligence, misuse or improper conduct of a Member or of a Member's Permitted Lessees and Occupants, in which case such costs shall be charged to such Member.
- H. Maintain and repair all lateral water and sewer lines whether wholly within individual Condominium Areas or Common areas, and shall promptly replace or repair same as necessary.
- I. Maintain (including snow plowing and street light maintenance) the roads, outdoor parking areas and walks in the Association Property, and set and enforce driving and parking regulations on the road.
- J. Authority to allocate and assign parking spaces through the project to individual condominium unit owners and/or condominium units and clusters. Any unallocated parking spaces may be rented out by the Board on a monthly basis so long as they are not otherwise utilized by unit owners.
- K. Employ such security forces as may be necessary to patrol the Association Property and any buildings constructed thereon, and to investigate security alerts.
- L. Pay all costs directly related to the operation and maintenance of the Association Property and the services which the Association renders, except that if such costs cannot be separately obtained or if it is advisable to incur such costs jointly with others, then the Association shall pay to or cause to be collected from such others its or their equitable share of such costs.
- M. Procure and maintain adequate property damage and liability insurance policies covering the Association Property and occurrence thereon as determined by the Board of Directors, with the following provisions:
- (1) Any adjustment of loss shall be made by the Board of Directors, with the approval of an Insurance Trustee if such loss is \$15,000.00 or more.
 - (2) Net proceeds, if \$15,000.00 or less, shall be payable to the Board of Directors, but if more than \$15,000.00 shall be payable to the Insurance Trustee, in each case to be applied for the purpose of repairing, restoring or rebuilding unless otherwise determined by the Members in accordance with the provisions of these bylaws and the Rules and Regulations of the Association.
 - (3) The names of the insureds are the Association, its Members, the Board of Managers and Unit Owners of Pondside Village I Condominium, Pondside

Village II Condominium, Pondside Village III Condominium and Pondside Club West Condominium.

(4) No Policy may be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds.

(5) All public liability insurance policies shall cover cross liability claims of one insured against the other.

N. Procure and maintain, to the extent obtainable, the following insurance for the Pondside Village I, II and III and Pondside Club West Condominiums: fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements insuring the Buildings including all of the Units, and the bathroom and kitchen fixtures initially installed therein by the Sponsor (but not including furniture, furnishings or other personal property supplied or installed by Unit Owners), together with all air conditioning and other service machinery contained therein, covering the respective Unit Owners and their mortgages, as such interests may appear, in an amount equal to the full replacement value of the Buildings. Each of such policies shall contain a New York standard interest may appear, subject, however, to the loss payment provisions in favor of the respective Boards of Managers and the Insurance Trustee hereinafter set forth, and such other insurance as the Board of Directors may determine. All such policies shall provide that adjustments of loss shall be made by the respective Boards of Managers (with the approval of the Insurance Trustee, if any and that the net proceeds thereof, \$100,000 or more, shall be payable to the Insurance Trustee). The Board of Directors shall also obtain and maintain workmen's compensation insurance and disability insurance for any employee of the Condominiums, and such insurance as the Board of Directors deems necessary.

(1) The Fire insurance for each Condominium will commence with the closing of title to the first Unit of each respective Condominium in an amount as required by the mortgagee of such Units and such amount will be increased upon the closing of title to all respective Condominium Units and until the first meeting of the respective Board of Managers following the first annual Unit Owners meeting, such amount shall be at least in the sum of \$1,000,000.00.

(2) All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Unit Owners or of the invalidity arising from any acts of the insured or any Unit Owners, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgages of Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgages of Units at least ten (10) days prior to expiration of then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the building

or buildings comprising the respective Condominiums, including all of the common elements appurtenant thereto for the purpose of determining the amount of fire insurance to be effected pursuant to this section.

(3) The Board of Directors shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Directors may from time to time determine, covering each member of the respective Condominium Boards of Managers, the managing agent and each unit owners. Such public liability coverage shall also cover cross liability claims of one insured against another. Until the first meeting of the Board of Managers following the first annual Unit Owners meeting of each respective Condominium, such public liability insurance shall be in a single limit of \$1,000,000.00 with respect to each Condominium covering all claims for bodily injury or property damage arising out of one occurrence. Such public liability insurance shall commence on the closing of title to the first Unit.

(4) Unit Owners shall not be prohibited from carrying other insurance for their own benefit provided that such policies contain waivers of subrogation and further provide that the liability of the carriers issuing insurance procured by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

(5) The Insurance trustee shall be a bank or trust company located in the State of New York, designated by the Board of Directors. All fees and disbursements of the Insurance Trustee shall be paid by the respective Board of Managers and shall constitute a common expense of the respective Condominium. In the event an Insurance Trustee resigns or fails to qualify, the Board of Directors shall designate a new Insurance Trustee which shall likewise be a bank or trust company located in the State of New York.

(6) In the event of damage to or destruction of the buildings of a Condominium as a result of fire or other casualty (unless 75% or more of the buildings are destroyed or substantially damaged and 75% or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration), the Board of Directors shall arrange for the prompt repair and restoration of the buildings (including any damaged Units, and any kitchens or bathroom fixtures initially installed therein by the Sponsor, but not including any wall, ceiling or door decorations or coverings or other furniture, furnishings, fixtures or equipment installed by Unit Owners in the Units), and the Board of Directors (or the Insurance Trustee), as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense of the respective Condominiums and the Board of Managers of same may assess all the Unit Owners therein for such deficit as part of the common charges.

If 75% or more of the Buildings are destroyed or substantially damaged and 75% or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the property shall be subject to an action for partition at the suit of

any Unit Owner or lienor, as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds) shall be divided by the Board of Directors or the Insurance Trustee, as the case may be, among all Unit Owners in proportion to their respective common interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

(7) The Board of Directors shall have no obligation or responsibility for procuring or maintaining the insurance set forth above unless and until the respective Condominium for which coverage is sought has paid in full the premium rendered for such coverage.

Article VIII. REPAIR OR RECONSTRUCTION AFTER CASUALTIES

Section 1. Taking of Association Property

In case of a condemnation or taking in eminent domain of a part of the Association Property, the award received by the Association as a result thereof will be used, to the extent sufficient therefore, to repair, restore and replace the damaged Association Property, and if insufficient, the deficit will be included in the Association Expenses. Any surplus will be retained by the Association.

In the event a taking in condemnation or by eminent domain of part or all of the Association Property is in excess of \$10,000.00, then the Board of Directors shall promptly notify all mortgages of Units of such taking and loss.

Article IX. OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers

The Officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other Officers as the Board may from time to time by resolution create, who need not be a Director or Member.

Section 2. Election of Officers

The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term

The Officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments

The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal

Any Officer may be removed from office with or without cause by the Board. Any Officer may resign at any time by giving written notice to the Board, the president or secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies

A vacancy in any office may be filled in the manner prescribed for regular election. The Officer elected to such vacancy shall serve for the remainder of the term of the Officer he replaces.

Section 7. Multiple Offices

The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices.

Section 8. Duties

The duties of the Officers are as follows:

President:

The President shall preside at all meetings of the Board of Directors and of the Members. The President shall see that orders and resolutions of the Board are carried out, and shall have the power to appoint committees from among the Members of the Association to assist in the conduct of the affairs of the Association from time to time when, in his or her discretion, it is deemed appropriate.

Vice-President:

The Vice-President shall take the place 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 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 by the Board of Directors or by the President.

Secretary:

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members' keep appropriate current records showing the Members and Directors of the As-

sociation together with their addresses; keep charge of such other books and papers as the Board may direct; and perform such other duties as required by the Board.

Treasurer:

The Treasurer shall have the responsibility for Association funds and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursement and for preparing all required financial data. The Treasurer shall be responsible for the deposit of all monies of the Association in appropriate bank accounts as may from time to time be designated by the resolution of the Board of Directors; shall cause an annual audit of completion of each fiscal year; and shall prepare an annual budget to be approved by the Directors and a statement of income and expenditures to be presented to the Members.

Section 9. Agreements, Contracts, Deeds, Checks, etc.

All agreements, contracts, leases, mortgages, deeds, checks, promissory notes and other written instruments of the Association shall be executed by any two (2) persons as may be designated by the Board of Directors.

Section 10. Compensation

No Officer shall receive compensation for any service rendered to the Association as such, except that an Officer who, at the request of the Board of Directors, serves as a manager, managing agent, or in another capacity for the Association shall receive such compensation as agreed to between the Board of Directors and such Officer. However, any Officer may be reimbursed for actual expenses incurred in the performance of his or her duties as an Officer, if such reimbursement is so authorized by the Board of Directors.

Article X. ASSESSMENTS

Section 1. Purpose of Assessments

The assessments levied by the Association shall be used for the purpose of maintaining, managing and controlling the Association Property, and for such other purposes as may be set forth or authorized in the Declaration, the Certificate of Incorporation of the Association, and these bylaws.

Section 2. Obligation To Pay Assessments

Pursuant to the Declaration, each Member is obligated to pay common charges to the Condominium and as a result thereof each Member is deemed to covenant and agree to pay the following to the Association: (1) annual assessment or charges, (2) special assessments, and (3) capital assessment.

A member shall not be excused from paying his or her Pro Rata Share of the Association Expenses by waiving the use of all or any part of the Association Property. Further, in the event of a temporary or permanent closing of any Recreational Facilities, or the taking of any portion of the Association Property in condemnation or eminent domain proceedings or the destruction of the Recreations Facilities by fire or other casualty, each Member shall remain

liable for his or her Pro Rata Share of the association Expenses so long as the Association shall continue.

All Members are obligated in the manner hereinafter provided to remit the assessments to the Association. If any such Member fails to remit any assessment, the Association shall have the right to bring legal action for an injunction and/or money judgment against the Member who fails to pay said assessment. The Association, in addition to recovering the amount of the delinquent assessment, may recover from the Member interest thereon, costs and reasonable attorneys' fees. The other remedies against the Members for their failure to pay are hereinafter set forth in Section 8 of this Article.

Payments shall be made to the Association monthly unless otherwise designated by the Directors.

Section 3. Manner of Payment

The Board of Managers of Pondside Village I Condominium, Pondside Village II Condominium, Pondside Village III Condominium, and Pondside Club West Condominium, may, by notice in writing to the Board of Directors for the Association, elect to collect from their respective Unit Owners together with and as part of the Common charges, and to pay to the Association, the Pro Rata Share of the Association Expenses of such Unit Owners. If any such Board of Managers elects to so collect any pay over and then fails to either collect or if collected, to pay the same the Association, the Association may, in addition to all other remedies available to it in law or in equity, bring an action for injunction or a suit for a money judgment, or both, against said Board of Managers.

Payment shall be made to the Association monthly unless otherwise designated by the Directors.

Section 4. Basis of Assessment

At least annually, the Directors shall estimate the costs and expenses of operating the Association and prepare a budget of such costs and expenses for the succeeding year, which budget may be changed during the year. Based on such budgets, the Directors shall assess equally each of the membership certificates. Such budget may include items for services applicable to both the Homeowners Association and one or both of the Condominiums, allocated to the Homeowners Association for ease of accounting or efficiency, or economy, or other reason within the discretion of the Board.

Section 5. Section 5. Special Assessments

In addition to the annual assessment authorized herein, the Association may levy a special assessment in the event of a deficit in the annual operating budget. The amount of such special assessment as may be levied shall be borne equally by the membership certificates.

Section 6. Capital Assessments

In addition to the annual and special assessments authorized herein, the Association may also levy a capital assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair of replacements of a described addition, alteration or improvement and personal property related thereto. Such capital assess-

ments, if over \$25,000.00 per project, may be levied provided that any such assessment shall have the assent of a majority of the votes of all the Members cast at a special meeting duly called for this purpose, written notice of which shall be sent to all Members of the Association not less than fifteen (15) days in advance of the meeting setting forth the purpose of the meeting. Except as proved hereinafter, the amount of such capital assessment as may be levied shall be borne equally by the membership certificates.

Section 7. Amount and Due Date of Annual Assessments

The Board of Directors shall fix the amount of the annual assessment against each membership card at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment or any change or modification thereof during the assessment period shall be sent to every holder of membership cards subject thereto at least thirty (30) days in advance of its payment date, which date shall be established by the Board of Directors. Such notice shall specify the required monthly payment to be made to the Association on account of the annual assessment.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association

Any Assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate of interest allowed under the laws of the State of New York. The Board of Directors has the power to suspend membership privileges, as described in Article VII, Section 1. No Member may waive or otherwise escape liability for the assessments provided for herein by abandonment of the Unit.

Article XI. BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by a Unit Owner and by any first mortgagee of a Unit. The Declaration, the Articles of Incorporation and the bylaws of the Association shall be available for inspection by any Unit Owner at the principal office of the Association, where copies may be purchased at reasonable cost.

An annual report of the receipts and expenditures of the Association, prepared by an independent certified public accountant, shall be submitted by the Board of Directors to all Members within four months after the end of each fiscal year.

Article XII. CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: *PONDSIDE HOMEOWNERS ASSOCIATION, INC.*

Article XIII. AMENDMENTS

Section 1.

These bylaws may be amended, at a regular or special meeting of the Board of Directors, by a vote of a majority of the Directors at a duly held meeting at which a quorum is present.

Section 2.

These bylaws may also be amended at a duly called meeting of the Members at which a quorum is present, by a vote of the majority of the Members.

Section 3.

The provisions of the bylaws of the Association relating to the use of the Association Property or the manner of apportioning assessments or dues may not be amended or modified without the prior written consent of every Member affected by such amendment or modification.

Article XIV. CONFLICT WITH BYLAWS

In the case of any conflict between the Certificate of Incorporation and these bylaws, the Certificate shall control. In the case of any conflict between the Declaration and these bylaws, the Declaration shall control.

Article XV. SEVERABILITY

The invalidity of any part of these bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these bylaws.

Article XVI. INDEMNIFICATION

The Directors and Officers shall not be liable to the Members of 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 Director or Officer, their heirs, administrators and executors against any losses, expenses and counsel fees reasonably incurred in connection with any action or proceeding in which said Director or Officer, their heirs, administrators and executors are made a party by reason of such office, provided, however, that should such Director or Officer be adjudged in such action to have been guilty of gross negligence or willful misconduct, the aforesaid indemnity shall not apply. In the event of a settlement, such Director or Officer shall be indemnified only as to such matters covered by the settlement which counsel to the Association advises are not the result of such gross negligence or willful misconduct of such Director or Officer. The aforesaid indemnification is intended to encompass the aforesaid acts of the Directors or Officers in their capacity as such Directors or Officers, to the extent herein provided, and is not intended to be operative with respect to any duties, obligations or liabilities assumed by such Directors or Officers as Unit Owners or Association Members.

Article XVII. MISCELLANEOUS

Section 1.

The fiscal year and the annual assessment period of the Association shall be as determined by the Board of Directors.

Section 2.

The use of the masculine gender in these bylaws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.