

(For recording with Corps/DEQ permitting, and required to be recorded no more than 60 days after permit issuance.)

DECLARATION OF RESTRICTIONS

FOR

VA Hunter, LLC, Owner

BLACK DIAMOND, CRAIG COUNTY, VIRGINIA

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 19th day of April, 2007, by VA Hunter, LLC, a Delaware limited liability company, Owner.

WHEREAS, VA Hunter, LLC is the Owner of the Property more fully described on Exhibit A attached hereto; it being a part of the same property conveyed to Owner, by deeds from Robert H. Ratliff, et al., dated August 8, 2006, and duly recorded in the Clerk's Office of the Circuit Court of Craig County, Virginia in Deed Book 157, at pages 167 and 175, respectively:

WHEREAS, Owner desires to impose on said Property restrictive covenants expressing Owner's intent to preserve streams, wetlands and tributaries of said Property as shown on Exhibit B and as described as a Stream Buffer plan in perpetuity in its natural state as detailed below. These covenants are imposed by Owner freely and voluntarily, in order to assure that the aquatic impacts pursuant to Virginia Department of Environmental Quality (DEQ) permit number WP4-06-2280 and U.S. Army Corps of Engineers (USACE) permit number 06-V2280 shall be minimal.

NOW THEREFORE THIS DECLARATION WITNESSETH: Owner does hereby declare, covenant and agree, for itself and its successors and assigns, that said Property as described as Black Diamond and shown on Exhibit B shall be hereafter held, leased, transferred, and sold subject to the following conditions and restrictions which shall run with the land and binding on all parties and persons claiming under them.

Covenants and Restrictions.

The Property described as subject to ~~the Stream Buffer~~ plan shown on Exhibit B attached hereto shall be preserved in perpetuity in its natural state, by prohibiting the following activities:

1. Destruction or alteration of the preservation area shown on Exhibit B other than those alternations authorized by the Norfolk District, USACE under permit number 06-V2280 and the DEQ under permit number WP4-06-2280;
2. Ditching, draining, diking, damming, filling excavating, grading, plowing, flooding/ponding, mining, drilling, placing of trash and yard debris or removing/adding topsoil, sand, or other materials (except as may be

- necessary on a case-by-case basis with prior written approval by DEQ and USACE);
3. Permitting livestock to graze, inhabit or otherwise enter the preservation area.
 4. Cultivating, harvesting, cutting, logging, planting, and pruning of trees and plants, or using fertilizers and spraying with biocides (except as may be necessary on a case-by-case basis with prior approval by USACE and DEQ);
 5. Lot Owners having a Lot bisected by a waterway may construct an access for ingress and egress to and from the otherwise inaccessible area of their Lot only after obtaining all required area permits/approvals from State and Federal authorities.
 6. Construction, maintenance or placement of any structures or fills including but not limited to building, mobile homes, fences, signs other than those which currently exist. However, boardwalks, wildlife management structures, observation decks, one informative sign, and unpaved foot trails may be placed within the preservation area provided that any such structure permits the natural movement of water and preserves the natural contour of the ground and subject to prior written approval by the USACE and DEQ.

Amendment

The covenants contained herein shall not hereafter be altered in any respect without the express written approval and consent of the Owner or its successor in interest and the USACE and DEQ. The Owner or its successor may apply to the USACE and DEQ for vacation or modification of this Declaration; however, after recording, these restrictive covenants may only be amended or vacated by a recorded document signed by the USACE and DEQ and the Owner or its successor in interest.

Compliance Inspections and Enforcement

The USACE, DEQ, and its authorized agents shall have the right to enter and go upon the Property to inspect the Property and take actions necessary to verify compliance with these restrictive covenants. The restrictive covenants herein shall be enforceable by any proceeding at law or in equity or administrative proceeding by the USACE or DEQ, or any owner of a Lot within Black Diamond. Failure by any agency (or owner) to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

Separability Provision

The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion thereof shall not affect the validity or enforceability of any other provision thereof.

WITNESS the following signature and seal of VA Hunter, LLC, a Delaware limited liability company, by L. Hunter Wilson, its President.

VA HUNTER, LLC,
a Delaware limited liability company

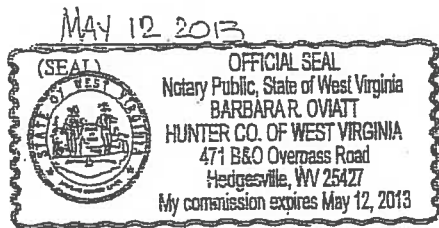
By: [Signature]
L. Hunter Wilson, President

STATE OF WEST VIRGINIA,

COUNTY OF BERKELEY,

The foregoing instrument was acknowledged before me this 19th day of APRIL,
2007, by L. Hunter Wilson, President of VA Hunter, LLC, a Delaware limited liability
company, on behalf of the limited liability company.

My commission expires:



[Signature]
Notary Public

THIS DOCUMENT PREPARED BY:

VA Hunter, LLC/USACE, Norfolk District
471 B&O Overpass Road
Hedgesville, WV 25427

EXHIBIT A

Legal description of property.

“Black Diamond”, as is more fully shown upon a plat thereof prepared by Terradon Corporation, dated July 10, 2006, and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 157, at page 204, et seq. and in Deed Book 158 at page 252, et seq., and page 268, et seq., LESS AND EXCEPTING OUTSALES, none of which are contained within the Property shown on Exhibit B, which remains vested in Owner.

EXHIBIT B

Legal description of preserved area.

The Stream Buffer and areas shown on all those Lots on that Final Plat of Black Diamond Subdivision, prepared by Terradon Corporation, approved April 19, 2007, and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 161, at page 829, including but not limited to:

- 1) That preservation easement shown as areas labeled BD9 and BD10 (Lots 44 and 45), to wit: An easement 50' in width extending both sides from the ordinary high water mark of the waterway and including the waterway as to BD9, and an easement 100' in width extending both sides from the ordinary high water mark of the waterway as to BD10. Said preservation easement is for the express purpose of installing one (1) crossing at an area therein to be determined by the USACE, not to exceed 100' in width as to the roadway or 100' in stream length.
- 2) That enhancement area wholly contained within Lot 66 as shown commencing at the mouth of Laurel Branch where it meets Johns Creek, then upstream 266', being a total of 50' in width extending both sides from the waterway as measured from ordinary high water mark of the waterway and including the waterway. This enhancement area is completely included within that 100' Stream Buffer provided for in the Supplemental Declaration of Reservations and Restrictive Covenants, regulated by the United States Fish and Wildlife Service (USFWS).
- 3) That enhancement area wholly contained within Lots 12 and 67 as shown extending 122' upstream along Laurel Branch and 50' in width extending both sides from the waterway as measured from ordinary high water mark of the waterway and including the waterway. This enhancement easement was previously created by that Declaration of Restrictions for Black Diamond, Craig County, Virginia dated September 26, 2006 and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 158, at page 68. This enhancement area is completely included within that 100' Stream Buffer provided for in the Supplemental Declaration of Reservations and Restrictive Covenants, regulated by the USFWS.
- 4) That created wetland mitigation on Lot 56 as shown on the aforesaid Final Plat.

BY-LAWS
OF
BLACK DIAMOND
PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I.

NAME, LOCATION, AND OBJECTIVES OF CORPORATION

Section 1. Name. This Corporation shall be known as "The Black Diamond Property Owners Association, Inc." (the "Association").

Section 2. Office. The principal office of the Association is c/o VA Hunter LLC, 471 B & O Overpass Road, Hedgesville, West Virginia 25427. The Association may have such other office or offices, and transact business, either within or without the Commonwealth of Virginia, as the Board of Directors may designate or as the business of the Association may require from time to time.

Section 3. Objectives. The objectives of the Association shall be to maintain the roads situated in the subdivision known as "Black Diamond" (the "Subdivision"), for the benefit of the property owners in the Subdivision. Further, the Association shall act in accordance with Article IX. of the Articles of Incorporation of the Association.

ARTICLE II.
MEMBERS

Section 1. Membership. The membership of the Association shall be limited to persons who own an interest in a lot in the Subdivision. Membership interests are not assignable except as expressly provided herein. The Developer, as defined in the Declaration of Reservations and Restrictive Covenants applicable to the Subdivision dated as of September 25, 2006 (the "Declaration") or any supplements or addenda to the Declaration, without regard to the assessments required as set forth herein, shall be entitled to one membership for each lot for which it is a record owner of a fee interest. Sale or other disposition of an interest in a lot within the Subdivision automatically transfers membership in the Association from the old interest owner to the new interest owner.

An interest in a lot in the Subdivision may be owned by a corporation, partnership, limited liability company, trust, estate or other entity, or be held by a custodian or conservator or other fiduciary on behalf of another. A corporate member's vote may be cast by the president of the member corporation or by any other officer of the corporation in the absence of express notice of the designation of some other person by the board of directors or by-laws of the member corporation.

The Association shall have two (2) classes of voting membership, which shall, except for the distinctions set forth herein, be equal in all respects:

a. Class A. Class A members shall be all those owners as defined in Article III., Section 1. of the Declaration, with the exception of the Developer. Class A members shall be entitled to one (1) vote for each lot in which they hold the interests required for membership by Article III, Section 1 of the Declaration. When more than one (1) person holds an interest or interests in any lot, all of such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such lot.

b. Class B. Class B membership shall be limited to the Developer. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article III, Section 1. of the Declaration. The Class B membership shall cease when the Developer owns no more lots in the Subdivision.

Section 2. Voting Rights. Each member shall be entitled to one vote, with the exception of the Developer as provided in Article II., Section 1. above, in person or by proxy, for each lot owned in the Subdivision. However, in no event shall more than one vote be cast with respect to any one lot in the Subdivision. In the event that a lot in the Subdivision has more than one record owner, the co-owners must notify the Association, in writing, which co-owner will cast the vote with respect to the lot. The voting rights of a member shall be limited as prescribed in the Declaration.

Section 3. Annual Meeting. The first annual meeting of the members of the Association shall be held on _____, 2006 at such place, either in or out of this Commonwealth, as provided for in the notice of the meeting. The failure to hold an annual or

regular meeting at the time stated in these By-laws does not affect the validity of any Association action. The record date for determining members entitled to vote at an annual meeting is the close of business on the day before the effective date of the notice to the members.

The date, time and place of the annual meeting of members of the Association, other than the first annual meeting, shall be selected by the membership at a previous annual meeting. The Association must give notice of an annual meeting to each member of the Association in accordance with Article IX., Section 5. of these By-Laws. Notice of the meeting must state the purpose of said meeting. If an annual meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date time, or place is announced at the meeting before adjournment, and is within one hundred-twenty (120) days after the date fixed for the original meeting.

Section 4. Special Meeting. Special meetings of the Association members may be called by the Board of Directors, the President, or by the members holding at least five (5) percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting delivering to the Association one or more written demands for the meeting describing the purpose or purposes for which the special meeting be held. The record date for determining members entitled to demand a special meeting is the date the first member signs the demand. Each member of the Association is entitled to notice of the special meeting pursuant to Article IX., Section 5. below.

Further, notice of a special meeting shall state the purpose or purposes for which the meeting is called. Only business within the purpose or purposes described in the meeting notice pursuant to Article IX., Section 5(a) below may be conducted at a special meeting of the members. If a special meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date time, or place is announced at the meeting before adjournment.

Section 5. Notice of Member Meetings. At least fourteen (14) days in advance of any annual meeting, and at least seven (7) days in advance of any special or other meeting, the Association will send to each member notice of the time, place, and purpose(s) of such meeting. Notice shall be sent by United States mail to all members at the address of their respective lots

and to such other addresses as any of them may have designated to such Association officer or his agent; or notice may be hand delivered by the officer or his agent, provided the officer or his agent certifies in writing that notice was delivered to the member.

A member may waive any notice required by Chapter 10 of the Code of Virginia, the Association Articles of Incorporation, or these By-Laws before or after the date and time of the meeting that is the subject of such notice. The waiver shall be in writing, signed by the member entitled to such notice, and be delivered to the Secretary of the Association for inclusion in the minutes or filing with the Association records. A member who attends a meeting: (1) waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and (2) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

Section 6. Quorum. At all member meetings of the Association, either annual or special, the presence, in person or by proxy, of at least one-tenth (1/10) of the members entitled to vote, and not disqualified from voting for any reason, shall constitute a quorum for the conduct of business. If a quorum is present, the affirmative vote of a majority of the members present at the meeting, in person or by proxy and entitled to vote on the subject matter shall be the act of the members. Once a member is present at a meeting he or she is deemed present for quorum purposes for the remainder of the meeting and for adjournment of that meeting unless a new record date is or shall be set for that adjourned meeting. Less than a quorum may adjourn the meeting.

Section 7. Proxies. A member entitled to vote may vote by a proxy who need not be a member of the Association. The vote of the member's proxy may be submitted by electronic transmission as provided in Article IX., Section 4. of these By-Laws.

a. Without limiting the manner in which a member may authorize another person or persons to act for him as proxy, the following shall constitute a valid means by which a member may grant such proxy authority:

i. A member may execute a writing authorizing another person or persons to act for him as proxy. Execution may be accomplished by the member or his or her authorized officer, director, employee or agent signing such writing or causing his signature to be affixed to such writing by any reasonable means, including, but not limited to, by facsimile signature.

ii. A member may authorize another person or persons to act for him as a proxy by transmitting or authorizing the transmission of a telegram, cablegram or other means of electronic transmission ("Alternative Means") to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such Alternative Means must either set forth or be submitted with information from which the inspectors of election can determine that the Alternative Means was authorized by the member. If it is determined that such Alternative Means are valid, the inspectors, or if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

iii. Any copy, facsimile telecommunications or other reliable reproduction of the writing or transmission created pursuant to this Subsection may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

b. An appointment of a proxy becomes effective when received by the Secretary, the Inspector, or other office or agent authorized to tabulate votes. An appointment is valid for eleven (11) months unless a longer period is expressly provided in the appointment form.

c. An appointment of a proxy is revocable by the member unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

i. A creditor of the Association who extended it credit under terms requiring the appointment; or

ii. An employee of the Association whose employment contract requires the appointment.

d. The death or incapacity of the member appointing a proxy does not affect the right of the Association to accept the proxy's authority unless notice of the death or incapacity is received by the Secretary, Inspector, or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment.

e. An appointment made irrevocable under this Section 6(c) is revoked when the interest with which it is coupled is extinguished.

f. Subject to Article II., Section 10. of these By-Laws and to any express limitation of the proxy's authority appearing on the face of the appointment form, the Association is entitled to accept the proxy's vote or other action as that of the member making the appointment.

g. Any fiduciary who is entitled to vote any shares may vote such shares by proxy.

Section 8. Action Taken Without a Meeting. Any action which may be taken at a meeting of members may be taken without a meeting if the action is taken by all of the members entitled to vote on the action. The action shall be evidenced by one (1) or more written consents describing the action taken, signed by all of the members entitled to vote on the action, and delivered to the Secretary of the Association for inclusion in the minutes or filing with the Association records. Any action taken by unanimous written consent shall be effective according to its terms when all consents are in possession of the Association. A member may withdraw consent only by delivering a written notice of withdrawal to the Association prior to the time that all consents are in the possession of the Association. Action taken under this Section 8. is effective as of the date specified therein, provided that the consent states the date of execution by each member. The record date for determining members entitled to take action without a meeting is the date the first member signs the consent.

Section 9. Conduct of the Meeting. At each meeting of members, a chair must preside. The chair is to be appointed by the Board of Directors. The chairperson shall determine the order of business and has the authority to establish rules for the conduct of the meeting. Any rules adopted for, and the conduct of, the meeting are to be fair to members. The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls are to be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies or votes, nor any revocations or changes to a ballot, proxy or vote, may be accepted.

Section 10. Voting Lists. The Association must prepare, at least ten (10) days before each meeting, a complete list of the members of the Association, with the address of each. Where members are entitled to vote, the list must be arranged by classes of members and include the address of each member, the lot number that the member represents, and the number of votes to which each member is entitled. Such list shall be available for inspection, at the Association's principal office or at a place identified in the meeting notice in the city where the meeting will be held, by any member of the Association at any time during usual business hours for a period of ten (10) days prior to the meeting subject to Article IX., Section 6(b) of these By-Laws. The Association must make the members' list available at the meeting, and any member entitled to vote at the meeting is entitled to inspect the list at any time during the meeting or any adjournment.

If the requirements of this Section 10. have not been substantially complied with, the meeting shall, on the demand of any member in person or by proxy, be adjourned until the requirements are complied with. Refusal or failure to prepare or make available the members' list does not affect the validity of action taken at the meeting, prior to the making of any such demand, but any action taken by the members after the making of any such demand shall be invalid and of no effect.

Section 11. Association's Acceptance or Rejection of Votes. If the name signed on a vote, consent, waiver or proxy appointment corresponds to the name of a member, the Association if acting in good faith is entitled to accept the vote, consent, waiver or proxy appointment and give it effect as the act of the member.

If the name signed on a vote, consent, waiver or proxy appointment does not correspond to the name of a member, the Association if acting in good faith is nevertheless entitled to accept the vote, consent, waiver or proxy appointment and give it effect as the act of the member if:

a. the member is an entity, trust or estate and the name signed purports to be that of an officer or agent of the entity, trust or estate;

b. the name signed purports to be that of an administrator, executor, guardian or conservator representing the member and, if the Association requests, evidence of this status acceptable to the Association has been presented with respect to the vote, consent, waiver or proxy appointment; or

c. the name signed purports to be that of an attorney-in-fact of the member and, if the Association requests, evidence acceptable to the Association of the signatory's authority to sign for the member has been presented with respect to the vote, consent, waiver, or proxy appointment.

Notwithstanding the provisions of this Section 11(b), in any case in which the will, trust agreement, or other instrument under which a fiduciary purports to act contains directions for voting, or for the execution and delivery of proxies for voting, such directions shall be binding upon the fiduciary and upon the Association if a copy thereof has been furnished to the Association. The Association is entitled to reject a vote, consent, waiver or proxy appointment if the Secretary, Inspector, or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member. The Association and its officer or agent who accepts or rejects a vote, consent, waiver or proxy appointment in good faith and in accordance with the standards of this Section 10. are not liable in damages to the member for the consequences of the acceptance or rejection. Association action based on the acceptance or rejection of a vote, consent, waiver or proxy appointment under this Section 10 is valid unless a court of competent jurisdiction determines otherwise.

Section 12. Liability of Members. A member of the Association is not liable to the Association or its creditors with respect to his or her membership except for the obligation to

pay in full any fines or penalties duly imposed against him or her and any dues and assessments levied against him or her to which he or she has assented, or imposed or levied against him or her in accordance with the provisions of Article V. of these By-laws.

Any member who receives any distribution of income or assets from the Association in violation of Title 13.1, Chapter 10 of the Code of Virginia or of the Articles of Incorporation of the Association, whether by dividend, in liquidation or otherwise, and who accepted or received the distribution knowing it to be improper, is liable for the amount so received: (1) To any creditors existing at the time of the distribution who obtained a judgment against the Association on which execution is returned unsatisfied; and (2) to the Association.

Section 13. Inspectors of Election. The Association may appoint one (1) or more inspectors to act at a meeting of members and make a written report of the inspectors' determinations. Each inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

The inspector(s) shall: (1) ascertain the number of members entitled to vote and the voting power of each; (2) determine the members represented at a meeting; (3) determine the validity of proxies and ballots; (4) count all votes; and (5) determine the result. An inspector may be an officer or employee of the Association.

ARTICLE III.

BOARD OF DIRECTORS

Section 1. Number of Directors. The initial Board of Directors for the Association shall consist of the three (3) individuals provided for in Article VII. of the Articles of Incorporation of the Association. After the expiration of the term of the initial Board of Directors, or upon the resignation of all of the initial Board of Directors, the Board of Directors shall consist of at least three (3) individuals, the number thereof to be determined from time to time by amendment to these By-Laws

Section 2. Nomination. Nomination for the election to the Board of Directors shall be made from the floor at the annual meeting of members.

Section 3. Qualification and Election. A director need not be a resident of the Commonwealth of Virginia or a member of the Association. Directors shall be elected by the members at the annual meeting of the members. Elections for directors may be conducted by mail or electronic means, such as through electronic mail as provided in Article IX., Section 4 of these By-Laws. No individual shall be named or elected without his or her prior consent.

Section 4. Voting for Directors. Unless otherwise provided by law, at each election of directors, every member entitled to vote at such election shall have the right to place one vote, in person or by proxy, for each director's position to be filled on the Board of Directors. Directors are elected by a plurality of the votes cast by the members at a meeting at which a quorum is present, or if voting by mail, by the total number of members who vote provided it is not less than the number required for a quorum. There shall be no cumulative voting privileges.

Section 5. Term of Office. In the absence of resignation or removal, the terms of the Board of Directors of the Association are as follows:

- a. Initial Directors. The term of the initial Board of Directors expires at the first annual members' meeting.
- b. Subsequent Directors. The terms of all subsequent directors expire at the next annual meeting of members following their election.

Despite the expiration of a director's term, in the absence of resignation or removal, he or she continues to serve until his or her successor is elected and duly qualified, or until there is a decrease in the number of directors. A decrease in the number of directors does not shorten an incumbent director's term. Other than the initial directors, no person may serve more than two (2) consecutive terms on the Board of Directors.

Section 6. Judicial Review of Election. Any member or director aggrieved by an election of directors may, after reasonable notice to the Association and each director whose election is contested, apply for relief to the Circuit Court of Craig County, Virginia.

Section 7. Directors Meetings.

- a. Annual Regular Meetings. The annual meeting of the Board of Directors shall be held without other notice to the board members other than these By-laws immediately

after, and at the same place as, the annual meeting of the members. The Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than such resolution.

b. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or by any two (2) directors. The person or persons authorized to call special meetings of the Board of Directors may fix the place for holding any special meeting of the Board of Directors called by them. A special meeting of the Board of Directors may be held with at least two (2) days notice of the date, time and place of the meeting. The notice need not describe the purpose of the special meeting.

c. Notice of Directors Meetings.

i. Electronic Transmission. A notice of the date, time, place or purpose of a regular or special meeting of the Board of Directors may be given by a form of electronic transmission consented to by the director to whom the notice is given. Any such consent of a director shall be revocable by the director by written notice to the Association. Any such consent shall be deemed revoked if: (1) the Association is unable to deliver by electronic transmission two (2) consecutive notices given by the Association in accordance with such consent; and (2) such inability becomes known to the Secretary or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Notice given by electronic transmission shall be deemed given: (1) if by facsimile telecommunication, when directed to a number at which the director has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the director has consented to receive notice; (3) if by a posting on an electronic network together with separate notice to the director of such specific posting when such notice is directed to an address at which the director has consented to receive notice, upon the later of such posting or the giving of such separate notice; and (4) if by any other form of electronic transmission, when consented to by the director. An affidavit of the Secretary or other agent of the Association that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

ii. Waiver of Notice by Director. A director may waive any notice required by Chapter 10 of the Code of Virginia, Chapter 26 of the Code of Virginia, the Articles of Incorporation, or By-Laws before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such notice. Except as provided below, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or Association records. A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting, or promptly upon his arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

d. Rights of Members Regarding Directors Meetings.

i. Open Meeting Requirements. All meetings of the Board of Directors, including any subcommittee or other committee thereof, shall be open to all members of record. The Board of Directors shall not use work sessions or other informal gatherings of the Board of Directors to circumvent the open meeting requirements of this Section 7. Minutes of the meetings of the Board of Directors shall be recorded and shall be available as provided in Article IX., Section 6(b) below. Any member may record any portion of a meeting required to be open. The Board of Directors or subcommittee or other committee thereof conducting the meeting may adopt rules: (1) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings; and (2) requiring the member recording the meeting to provide notice that the meeting is being recorded.

If a meeting is conducted by telephone conference or video conference or similar electronic means, at least two (2) members of the Board of Directors shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of the Board of Directors participating in the meeting who is not physically present.

Participating in voting by secret or written ballot in an open meeting is a violation of the Virginia Property Owners' Association Act except for the election of officers.

ii. Notice of Directors Meetings to Members. Notice of the time, date and place of each meeting of the Board of Directors or of any subcommittee or other committee

thereof shall be published where it is reasonably calculated to be available to a majority of the members.

(A) Member's Request for Notice. A member may make a request be notified on a continual basis of any such meetings which request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any e-mail address as appropriate. Notice of the time, date, and place shall be sent to any member requesting notice: (1) by first-class mail or e-mail in the case of meetings of the Board of Directors; or (2) by e-mail in the case of meetings of any subcommittee or other committee of the Board of Directors.

(B) Special Meetings. Notice, reasonable under the circumstances, of special meetings shall be given contemporaneously with notice provided to the Association's Board of Directors or any subcommittee or other committee thereof conducting the meeting.

iii. Meeting Materials. Unless otherwise exempt as relating to an executive session pursuant to Section 7(e) below, at least one (1) copy of all agenda packets and materials furnished to members of the Association's Board of Directors or subcommittee to other committee thereof for a meeting shall be made available for inspection by the membership of the Association at the same time such documents are furnished to the Board of Directors or any subcommittee or committee thereof.

iv. Members Comments During Directors Meetings. Subject to reasonable rules adopted by the Board of Directors, the Board of Directors shall provide a designated period of time during a meeting to allow members an opportunity to comment on any matter relating to the Association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the Board of Directors may limit the comments of members to the topics listed on the meeting agenda.

e. Motion for Executive Session. The Board of Directors or any subcommittee or other committee thereof may convene in executive session to consider personnel matters; consult with legal counsel; discuss and consider contracts, pending or probable litigation and matters involving violations of the Declaration adopted pursuant thereto.

for which a member, his family members, tenants, guests or other invitees are responsible; or discuss and consider the personal liability of members to the Association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the Association minutes. The Board of Directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion or other action adopted, passed or agreed to in executive session shall become effective unless the Board of Directors or subcommittee or other committee thereof, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion or other action which shall have its substance reasonably identified in the open meeting. The requirements of this Section 7(e) shall not require the disclosure of information in violation of law.

Section 8. Quorum. Unless a greater proportion is required by law, by the Association's Articles of Incorporation, or these By-Laws, a majority of the number of directors in office immediately before the meeting begins shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If less than a majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors present at a meeting in which a quorum is present shall be the act of the Board of Directors.

Section 9. Action Taken Without a Meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which they could take in a meeting by obtaining the written approval of all of the directors. The action shall be evidenced by one or more written consents stating the action taken, signed by each director either before or after the action taken, and included in the minutes or filed with the Association records reflecting the action. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors. Action taken under this Section 10. is effective when the last director signs the consent, unless the consent specifies a different effective date, in which event the action taken is effective as of the date specified therein provided the consent states the date of execution by each director.

Section 10. Order of Business. At all meetings of the directors, the order of business shall be as follows:

- a. Reading of minutes of last previous meeting for information and approval.
- b. Reports of Officers.
- c. Reports of Committees, if any.
- d. Unfinished business.
- e. New business.
- f. Reading and approval of minutes of the meeting just completed, if requested.

Section 11. Presumption of Assent. A director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when Association action is taken is deemed to have assented to the action taken unless:

- a. he or she objects at the beginning of the meeting, or promptly upon his arrival, to holding it or transacting specified business at the meeting; or
- b. he or she votes against, or abstains from, the action taken.

Section 12. Presiding Officer. At all meetings of the Board of Directors, any director elected by the directors present, shall preside. The Secretary or any person appointed by the directors present, shall keep a record of the proceedings. The records shall be verified by the signature of the person acting as chairman of the meeting.

Section 13. Resignation. A director may resign at any time by delivering written notice to the Board of Directors, the President or the Secretary of the Association. Resignation is effective when the notice is delivered unless the notice indicates a later effective date and the Board of Directors agrees to such later effective date. If a resignation is made effective at the later date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date. Any person who has resigned as a director of the Association, or whose name is incorrectly on file

with the Virginia State Corporation Commission ("the Commission") as a director of the Association, may file a statement to that effect with the Commission. Upon the resignation of a director, the Association may file an amended annual report with the Commission indicating the resignation of the director and the successor in office.

Section 14. Removal. The members may remove (1) one or more directors with or without cause. A director may be removed only at a meeting called for the purpose of removing him or her and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director. Upon removal of a director, the Association may file an amended annual report with the Commission.

Section 15. Vacancy. Any vacancies existing in the Board of Directors, including a vacancy resulting from an increase in the number of directors, may be filled by the Board of Directors. However, if the directors remaining in office constitute fewer than a quorum of the Board of Directors, the members entitled to elect directors may fill the vacancy by the affirmative vote thereof at a special meeting of members. The term of a director elected to fill a vacancy expires at the next meeting at which directors are elected. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs. The Association may file an amended annual report with the Commission indicating the filling of a vacancy.

Section 16. Compensation. No Director shall receive any salary or compensation for services rendered to the Association. By resolution of the Board of Directors, each director may be paid his expenses, if any, of attendance at each meeting of the Board of Directors.

Section 17. General Powers. The officers of the Association acting in the form of a Board of Directors shall have general charge and management of the affairs, funds, and property of the Association. Said Board of Directors shall have full power, and it shall be their duty to carry out the purposes of the Association according to its Articles of Incorporation and these By-laws.

Section 18. Other Powers. The Board of Directors may make reasonable rules for the conduct of the members and their guests for the use of Association property and facilities not

provided for in these By-laws, the Declaration, the Articles of Incorporation of the Association, or the individual deed or deeds of members/owners of lots in the Subdivision.

ARTICLE IV.

OFFICERS

Section 1. Enumeration of Officers. The officers of the Association shall consist of a President, Vice-President, Secretary and a Treasurer. The same individual may simultaneously hold more than one (1) office in the Association. Additionally, any duly appointed officer may appoint one or more officers or assistant officers if authorized by the Board of Directors.

Section 2. Nomination. Nomination for the election of the officers shall be made from the floor at the annual meeting of directors or by a Nominating Committee pursuant to Article IX., Section 8 of these By-Laws.

Section 3. Qualification and Election. Officers shall be elected at the annual meeting of the Board of Directors. The officers shall be elected from among the Board of Directors by a majority vote.

Section 4. Term. The officers of the Association shall hold office for one (1) year unless he or she sooner resigns, is removed, or otherwise is disqualified to serve.

Section 5. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the Association and shall appoint such committees as he or she, or the Association shall consider necessary. The President shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice-President. In the absence of the President, the Vice-President shall perform his or her duties, and in the absence of both the President and Vice-President, the Treasurer shall preside and assume the duties of President. The Vice-President shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Association.

Section 7. Secretary. The Secretary shall keep the minutes of all meetings of the Association and shall, if requested, read such minutes at the close of each meeting for approval if possible. The Secretary shall also mail out all notices for meetings of the Association, authenticate records of the Association, and perform such other duties as may be required of him or her by these By-Laws, the Association President, the Virginia Nonstock Corporation Act or the Association.

Section 8. Treasurer. The Treasurer shall have the charge of all receipts and monies of the Association, deposit them in the name of the Association in a bank approved by the Association, and disburse funds as ordered or authorized by the Association. He or she shall keep regular accounts of his or her receipts and disbursements, submit his or her record when requested, and give an itemized statement at regular meetings of the Association. He or she, or the President or Vice-President, may sign checks and withdrawal slips on behalf of the Association upon any and all of its bank accounts, provided that each check must be countersigned by another member of the Board of Directors.

Section 9. Resignation. An officer may resign at any time by delivering written notice to the Board of Directors. A resignation is effective when the notice is delivered to the Board of Directors unless the notice specifies a later effective date. If a resignation is made effective at a later date and the Association accepts the future effective date, its Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date. An officer's resignation does not affect the Association's contract rights, if any, with the officer. Any person who has resigned as an officer of the Association, may file a statement to that effect with the Commission. Additionally, upon the resignation of an officer, the Association may file an amended annual report with the Commission indicating the resignation of the officer and the successor in office.

Section 10. Removal. The Board of Directors may remove any officer at any time with or without cause and any officer or assistant officer, if appointed by another officer, may likewise be removed by such officer, but such removal shall be without prejudice of the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create contract rights. Upon the removal of an officer, the Association may file an amended

annual report with the Commission indicating the removal of the officer and the successor in office.

Section 11. Vacancies. If a vacancy occurs among the officers, the Board of Directors shall fill said vacancy for the remainder of said officer's term.

Section 12. Execution of Instruments. By direction of the Association, the President, Secretary or the Treasurer, shall sign all leases, contracts or other instruments in writing. Expenditures outside of the usual course of business are subject to the vote of the Board of Directors prior to their being incurred or advanced.

Section 13. Compensation. Neither the officers nor any member serving on a committee shall receive any salary or compensation for services rendered to the Association.

ARTICLE V. ASSESSMENTS

Section 1. Property Maintenance Charge Annual Fee. The owner(s) of each lot in the Subdivision shall pay to the Association an annual property maintenance charge in accordance with the provisions of the Declaration.

Section 2. Annual Association Dues. The amount of the annual Association dues shall be the amount stated in the Declaration. For purposes of this Article V., the Association's initial By-Laws adopted by the Board of Directors is deemed to have been adopted by all the members entitled to vote therein. The amount of the annual Association dues shall not be more than the amount permitted by the terms of the Declaration. This Section 2. shall not be amended without the approval of all of the members of the Association.

Section 3. Special Assessments. The Board of Directors shall have the power to levy a special assessment against the members of the Association as provided in Article V., Section 4 of the Declaration and in accordance with § 55-514 of the Virginia Property Owners' Association Act as now in effect or as may hereafter be amended.

Section 4. Default. In the event of default by any member in paying the annual property maintenance charge to the Association or any special assessment as described in this Article V., Section 3 above, such charge shall become a lien upon the member's property as

provided in the Declaration. Each member in default shall be obligated to pay interest at the highest legal rate allowed by law and such common charges from the due date thereof as determined by the Association, together with all expenses, including reasonable attorney fees, incurred by the Association in any proceedings brought to collect such unpaid common charges.

ARTICLE VI. CONTRACTS AND ACCOUNTS

Section 1. Receipts. The President, Vice-President, Secretary and Treasurer are each authorized to receive and receipt for all moneys due and payable to the Association from any source whatsoever, and to endorse for deposit checks, drafts, and other money orders in the name of the Association or on its behalf, and to give full discharge and receipt therefore.

Section 2. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 3. Loans. No loans shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances. Notwithstanding any provision herein to the contrary, no loan shall be contracted on behalf of the Association with any officer or director of the Association. Any director or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

Section 5. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

ARTICLE VII.
ACCOUNTING PERIOD

The accounting period of the Association shall begin on the 1st day of January and end on the 31st day of December in each year.

ARTICLE VIII.
AMENDMENTS TO BY-LAWS AND ARTICLE OF INCORPORATION

Section 1. Amendments to By-Laws.

a. Amendment by Board of Directors or Members. The Association's Board of Directors may amend or repeal the Association's By-Laws except to the extent that:

i. The Articles of Incorporation or the Virginia Nonstock Corporation Act reserves this power exclusively to the members; or

ii. The members in adopting or amending particular bylaws provide expressly that the Board of Directors may not amend or repeal that bylaw.

b. Amendment Increasing Quorum or Voting Requirements for Directors.

i. A bylaw that fixes a greater quorum or voting requirement for the Board of Directors may be amended or repealed:

(A) If originally adopted by the members, only by the members;

(B) If originally adopted by the Board of Directors, either by the members or by the Board of Directors.

ii. A bylaw adopted or amended by the members that fixes a greater quorum or voting requirement for the Board of Directors may provide that it may be amended or repealed only by a specified vote of either the members or the Board of Directors.

iii. Action by the Board of Directors under this Section 1(b)(i)(B) to adopt or amend a bylaw that changes the quorum or voting requirement applicable to meetings

of the Board of Directors shall meet the quorum requirement and be adopted by the vote required to take action under the quorum and voting requirement then in effect.

c. Emergency By-laws. The Board of Directors may adopt by-laws to be effective only in an emergency in accordance with the Code of Virginia §13.1-824. An emergency exists for purposes of this Section if a quorum of the Association's directors cannot readily be assembled because of some catastrophic event.

i. The emergency bylaws, which are subject to amendment or repeal by the members, may make all provisions necessary for managing the Association during the emergency, including:

- (A) Procedures for calling a meeting of the Board of Directors;
- (B) quorum requirements for the meeting; and
- (C) designation of additional or substitute directors.

ii. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency by-laws are not effective after the emergency ends.

iii. Association action taken in good faith in accordance with the emergency bylaws:

- (A) Binds the Association; and
- (B) may not be used to impose liability on an Association director, officer, employee or agent.

Section 2. Amendment of Articles of Incorporation.

a. Timing. The Association may amend its Articles of Incorporation at any time to add or change a provision that is required or permitted in the articles or to delete a provision not required in the articles. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

b. Amendments by Directors and Members.

i. The Association's Board of Directors may propose one or more amendments to the Articles of Incorporation for submission to the members. For the amendment to be adopted:

(A) The Board of Directors shall recommend the amendment to the members unless the Board of Directors determines that because of conflict of interests or other special circumstances it should make no recommendation and communicates the basis for its determination to the members with the amendment; and

(B) The members entitled to vote on the amendment shall approve the amendment as provided in this Section 2(b)(iv).

ii. The Board of Directors may condition its submission of the proposed amendment on any basis.

iii. The Association shall notify each member entitled to vote of the proposed members' meeting. The notice of meeting shall also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy of the amendment.

iv. Unless the Virginia Nonstock Corporation Act or the Board of Directors, acting pursuant to this Section 2(b)(ii), requires a greater vote, the amendment to be adopted shall be approved by more than a two-thirds (2/3) vote of all the members entitled to vote on the amendment at a meeting at which a quorum of all of those members entitled to vote exists.

c. Change in Quorum. An amendment to the Association's Articles of Incorporation that adds, changes, or deletes a quorum or voting requirement shall meet the quorum requirement and be adopted by the vote required to take action under the quorum and voting requirements then in effect.

ARTICLE IX.
MISCELLANEOUS

Section 1. Contracts with Directors and Officers. No contract or other transaction between the Association and one (1) or more of its directors or any other corporation, firm, association or entity in which one (1) or more of the Association's directors are directors or officers or are financially interested, shall be either void or voidable solely because of such relationship or interest or solely because such director is present at or participates in the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or solely because his votes are counted for such purpose, if: (1) the material facts as to such relationship or interest is disclosed or known to the Board of Directors or committee, and the directors or the committee in good faith authorizes, approves or ratifies the contract or transaction by a vote or consents of a majority of the disinterested directors; or (2) the contract or transaction is fair and reasonable to the Association. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

On any question involving the authorization, approval or ratification of any such contract or transaction, the names of those voting each way shall be entered on the record of the proceedings.

Section 2. Indemnification.

a. Indemnification of Directors.

i. Permissive Indemnification.

(A) Except as provided in this Section 2(a)(i)(D) below, the Association may indemnify an individual made a party to a proceeding because he is or was a director against liability incurred in the proceeding if:

- (1) He conducted himself in good faith; and
- (2) He believed:

(a) In the case of conduct in his official capacity with the Association, that his conduct was in the best interests of the Association;

(b) in all other cases, that his conduct was at least not opposed to the best interests of the Association; and

(c) in the case of any criminal proceeding, he had no reasonable cause to believe that his conduct was unlawful.

(B) A director's conduct with respect to an employee benefit plan for a purpose he believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of this Section 2(a)(i)(A)(2)(b).

(C) The termination of a proceeding by judgment, order, settlement or conviction is not of itself determinative that the director did not meet the standard of conduct described in this Section.

(D) The Association may not indemnify a director under this Section:

(1) In connection with a proceeding by or in the right of the Association in which the director was adjudged liable to the Association; or

(2) in connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

(E) Indemnification permitted under this Section in connection with a proceeding by or in the right of the Association is limited to reasonable expenses incurred in connection with the proceeding.

ii. Mandatory Indemnification if Successful on Merits. The Association shall indemnify a director who entirely prevails in the defense of any proceeding to which he or she was a party because he is or was a director of the Association against reasonable expenses incurred by him or her in connection with the proceeding.

iii. Advance for Expenses. The Association may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director of the Association who is a party to a proceeding because he or she is a director of the Association, if he or she delivers to the Association:

(A) a written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct described in this Article IX., Section 2(a)(i) above; and

(B) his or her written undertaking, executed personally or on his or her behalf to repay any funds advanced if he or she is not entitled to mandatory indemnification under this Article IX., Section 2(a)(ii) above and it is ultimately determined hereunder that he or she has not met the relevant standard of conduct. This undertaking must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make payment; and

(C) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article.

iv. Determination and Authorization. The Association may not indemnify a director under this Article IX., Section 2(a)(i) above unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in this Article IX., Section 2(a)(i) above. Such determination shall be made:

(A) By the Board of Directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(B) if a quorum cannot be obtained under Section (A) of this subdivision, by majority vote of a committee duly designated by the Board of Directors (in which designation directors who are parties may participate), consisting solely of two (2) or more directors not at the time parties to the proceeding;

(C) by legal counsel:

(1) Selected by the Board of Directors or its committee in the manner prescribed in paragraph (iv) or (ii) of this subsection; or

(2) If a quorum of the Board of Directors cannot be obtained under subdivision (A) of this subsection and a committee cannot be designated under subdivision (B) of this subsection, selected by majority vote of the full Board of Directors, in which selection directors who are parties may participate; or

(D) By the members, but directors who are at the time parties to the proceeding may not vote on the determination.

Authorization of indemnification and evaluation as to reasonableness of expense shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under this Article IX, Section 2(a)(iv)(C) to select counsel.

b. Indemnification of Officers, Employees and Agents.

i. An officer of the Association who is not a director is entitled to mandatory indemnification under this Article IX., Section 2(a) above, and is entitled to apply for court-ordered indemnification under § 13.1-879.1 of the Code of Virginia, in each case to the same extent as a director; and

ii. the Association may indemnify and advance expenses to an officer, employee, or agent of the Association who is not a director to the same extent as to a director under this Article IX., Section 2(a) above.

c. Non-Exclusive Remedy. The indemnification provided for herein shall not be deemed exclusive of any other rights to which any member may be entitled under any by-law, agreement, vote of members or disinterested directors or otherwise, both as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators.

d. Additional Indemnification. The directors of the Association may from time to time by resolution, provide for such additional indemnification or advancement of expenses as they deem appropriate to any person, acting for or on behalf of the Association by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. Such indemnification or advancement of expenses may be authorized in such resolution or resolutions to the extent the directors deem appropriate under the circumstances, but at no time may the directors of the Association provide for additional indemnification or advancement of expenses that is contrary to the laws of the Commonwealth of Virginia.

Section 3. Method of Attendance at Meetings. Any member or director may participate in any annual, regular or special meeting of members or directors by means of conference telephone or other similar electronic communications equipment by which all persons participating may simultaneously hear each other during the meeting. A member or director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 4. Voting by Mail or Electronic Means. Where directors are to be elected by members or any other action is to be voted upon by members, the elections may be conducted and the actions voted upon may be done by mail or electronic means. Any requirement that any vote of the members be made by written ballot may be satisfied by a ballot submitted by electronic transmission, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the member or the member's proxy. A quorum is to be determined by considering the total number of members who actually vote by mail, rather than from the total number of members entitled to vote. The Association must receive those votes from members voting by mail on or before the date of the meeting as specified in the notice of said meeting.

Section 5. Notice.

a. Effective Date of Notice. Written notice is effective:

i. To a member of the Association when mailed, if mailed postpaid and correctly addressed to the member's address shown in the Association's current record of members; or

ii. when communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where the notice is intended to be given, or by radio, television or other form of public broadcast communication.

b. Adjournment and Notice. If an annual, regular or special meeting of members is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under Article IX., Section 7. of these By-Laws, notice of the adjourned meeting must be given under this Article IX., Section 5. to persons who are members entitled to vote as of the new record date.

Section 6. Association Business Records.

a. Copies of Association Records. The Association shall keep detailed records of receipts and expenditures affecting the operation and administration of the Association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

b. Inspection of Records by Members. Subject to the provisions of Section 6(c) below, all books and records kept by or on behalf of the Association, including, but not limited to, the Association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation, and aggregate salary information of employees of the Association, shall be available for examination and copying by a member in good standing or his authorized agent so long as the request is for a proper purpose related to his or her membership with the Association. This right of examination shall exist without reference

to the duration of membership and may be exercised: (1) only during reasonable business hours or at a mutually convenient time and location; and (2) upon five days' written notice reasonably identifying the purpose for the request and the specific books and records of the Association requested. Further, subject to Section 6(c)(vii) below, draft minutes of the Board of Directors shall be open for inspection and copy: (1) within sixty (60) days from the conclusion of the meeting to which such minutes appertain; or (2) when such minutes are distributed to Board of Directors as part of an agenda package for the next meeting of the Board of Directors, which ever occurs first.

c. Scope of Inspection of Records by Members. Books and records kept by or on behalf of the Association may be withheld from inspection and copying to the extent they concern:

i. personnel matters relating to specific, identified persons or a person's medical records;

ii. contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

iii. pending or probable litigation. Probable litigation means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party;

iv. matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the Association documents or rules and regulations;

v. communications with legal counsel which related to Subsections 6(c)(i-iv) above or which is protected by the attorney-client privilege or the attorney work product doctrine;

vi. disclosure of information in violation of law;

vii. meeting minutes or other confidential records or an executive session of the Board of Directors held in accordance with this Section 6(c);

viii. documentation, correspondence or management or board reports compiled for or on behalf of the Association or the Board of Directors by its agents or committees for consideration by the Board of Directors in executive session; or

ix. individual lot owners or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the Association.

Prior to providing copies of any books and records to a member in good standing under this Article IX., Section 6., the Association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof.

d. Inspection of Records by Directors. A director of the Association is entitled to inspect and copy the books, records and documents of the Association at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the Association. The circuit court may order inspection and copying of the books, records and documents at the Association's expense, upon application of a director who has been refused inspection rights, unless the Association establishes that the director is not entitled to inspection rights. The circuit court shall dispose of an application under this Article IX., Section 6. on an expedited basis. If an order is issued, the circuit court may include provisions protecting the Association from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the Association, and may also order the Association to reimburse the director for the director's costs, including reasonable attorneys fees, incurred in connection with the application.

c. Financial Statements for Members. The Association shall furnish its members annual financial statements that include a balance sheet as of the end of the fiscal year, and an income statement for that year. If financial statements are prepared for the Association on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis. If the annual financial statements are reported upon by a public accountant, his or her report must accompany them. If not, the statements must be accompanied

by a statement of the President or the person responsible for the Association's accounting records:

i. stating his or her reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

ii. describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

The Association shall mail the annual financial statements to each member within one hundred twenty (120) days after the close of each fiscal year. On written request from a member who was not mailed the statements, the Association shall mail him or her the latest financial statements.

Section 7. Record Date. The Board of Directors may fix a future date as the record date in order to determine the members entitled to notice of a meeting of members, to vote or to take any other action. The record date may not be more than seventy (70) days before the meeting or action requiring a determination of members. A determination of members entitled to notice of or to vote at a meeting of members is effective for any adjournment of the meeting unless the Board of Directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting. If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date

Section 8. Committees. A majority of the Board of Directors may create one or more committees and appoint members of the Board of Directors who serve on them. Each committee may have two (2) or more members who serve at the pleasure of the Board of Directors.

a. Creation of Committees. The creation of a committee and appointment of directors to it shall be approved by the greater of: (1) a majority of all the directors in office when the action is taken, or (2) the number of directors required by these By-Laws to take action under Article III., Section 8.

b. Committee Rules. Section 13.1-864 through 13.1-868 of the Virginia Nonstock Corporation Act as now in effect or as may hereafter be amended, or any other statutory provision governing meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the Board of Directors, apply to committees and their members as well.

c. Limitations on Committees. To the extent specified by the Board of Directors and these By-Laws, each committee may exercise the authority of the Board of Directors under these By-Laws and § 13.1-853 of the Virginia Nonstock Corporation Act, except that a committee may not:

i. approve or recommend to members action that the Virginia Nonstock Corporation Act requires to be approved by members;

ii. fill vacancies on the Board of Directors or on any of its committees;

iii. amend articles of incorporation pursuant to Article III., Section 2. of these By-Laws;

iv. adopt, amend, or repeal the bylaws;

v. approve a plan of merger not requiring member approval.

d. Service of Committees. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in § 13.1-870 of the Virginia Nonstock Corporation Act, as now in effect or as may hereafter be amended.

Section 9. Usage of Terms.

a. Majority. Except as otherwise specifically provided, for the purposes of these By-laws, the term "majority" shall mean a number greater than one-half (1/2) the total.

b. Pronouns. Except as otherwise specifically provided, for the purposes of these By-laws, and as the context may require, the use of pronouns of the masculine gender

shall be deemed to include pronouns of the feminine and neutral genders, and the use of pronouns of the feminine gender shall be deemed to include pronouns of the masculine and neutral genders.

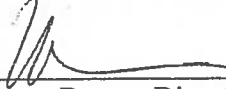
Section 10. Parliamentary Rules. Roberts Rules of Order shall govern the conduct of the Association meetings when not in conflict with these By-Laws.

Date Adopted: September 24 2006

We, the below-signed initial directors of The Black Diamond Property Owners Association, Inc., do hereby approve the By-Laws of the Association as adopted as of the 27 day of September, 2006.



L. Hunter Wilson, Director



M. Shannon Brown, Director



Katherine M. Cummings, Director