

## **BY-LAWS**



**NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13**

**BY-LAW NO. 13**

*CONDOMINIUM ACT, 1998*

**CERTIFICATE IN RESPECT OF A BY-LAW  
(under subsection 56(9) of the Condominium Act, 1998)**


NIAGARA NORTH CONDOMINIUM CORPORATION No. 13, (known as the "Corporation") certifies that:

- a. The copy of By-law No. 13, attached as Schedule "A", is a true copy of the By-law.
- b. The By-law was made in accordance with the *Condominium Act, 1998*.
- c. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

Dated this *21st* day of *June* 2005.

**NIAGARA NORTH CONDOMINIUM CORPORATION No. 13**

  
\_\_\_\_\_  
President: *JACK FOSTER*

  
\_\_\_\_\_  
Secretary: *DAVID PILKINGTON*

"We have the authority to bind the Corporation".

*NR 85472  
Nov 24/05*

**SCHEDULE "A"**

**NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13**

**BY-LAW NO. 13**

*CONDOMINIUM ACT, 1998*

**STANDARD CONDOMINIUM UNIT DEFINITION**

**WHEREAS:**

- 1) The Condominium Act, 1998 (the "Act") requires that the determination of what constitutes an "improvement" to a condominium unit shall be determined by reference to a standard unit definition;
- 2) The Corporation is responsible to insure the condominium units exclusive of the "improvements" to the units;
- 3) Each unit owner is responsible to insure the improvements to his or her unit;
- 4) Any component of a unit over and above the defined "standard unit" is considered to be an "improvement" to the unit.

**NOW THEREFORE be it enacted as a By-law of NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13 (hereinafter referred to as the "Corporation") as follows:**

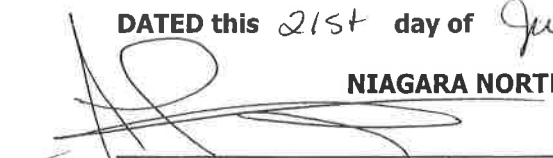

- 1) It is understood that the following description of the standard "unit" does not include the common elements of the Corporation as described in its Declaration and Description which shall be insured by the Corporation.
- 2) The standard unit shall be defined as all of those components of the unit contained within its boundaries, as defined in the Declaration and Description of the Corporation and shall include only:
  - (a) Builder's Standard floor coverings including vinyl or equivalent in kitchen, ceramics in bathrooms and parquet floors in all other rooms;
  - (b) All installations with respect to the provision of water, drainage and sewage services for the unit;
  - (c) All installations with respect to the provision of heat and ventilation including grates and/or other coverings;
  - (d) All installations with respect to the provision of electricity including outlets and outlet covers and telephone cable and three (3) outlets, cable television cable and three (3) outlets, all requisite smoke detectors as required by applicable regulation, one standard stove electrical outlet and one standard dryer electrical outlet where applicable;
  - (e) Interior partitions and walls completed to the drywall, including taping, sanding, one coat of primer paint and one coat of finishing paint;
  - (f) All interior doors, door trim, builder's mid-quality door hardware (exclusive of door locks which are the responsibility of the owner), floor trim, and internal window trim, (all trim shall be of builder's mid-quality and shall be finished with one coat of primer paint and one coat of finishing paint);
  - (g) Partitions and walls between units and common elements including, where applicable, insulation and vapor barrier, completed to the drywall (including taping, sanding, one coat of primer paint and one coat of finishing paint);
  - (h) Builder's Standard kitchen cabinets, counter tops and bathroom and powder room cabinets, counter tops and bathroom fixtures;
  - (i) Such other components of the unit which the Declarant of the condominium would have been required to construct by the then current regulations (as at the time of the damage or repair) in order to achieve registration of the condominium plan.


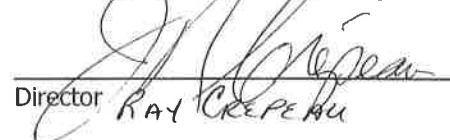
3. Anything within the boundaries of a unit which is not described in the definition of a standard unit set out above shall be considered an improvement to the unit. For greater certainty and without limiting the generality of the foregoing, the standard unit shall not include:
  - a. all up-graded floor coverings (including upgraded underpad);
  - b. wall coverings other than paint as described above, including paneling, other wood treatments, tiles, textured paint and/or wallpaper;
  - c. window coverings, drapery hardware or blinds;
  - d. any addition, alteration or improvement to the common elements made by an owner either before or after the date of proclamation of the Act and regardless of whether an agreement under Section 98 of the Act has or has not been entered into between the Owner and the Corporation for such addition, alteration or improvement.
  
4. For clarification, the consequence of such definition of "standard unit" is to cause all components of each unit that is not specifically stated to be part of the standard unit to be classified considered and defined as an "improvement" thereby making the owner(s) of such unit completely responsible for all insurance and maintenance relating thereto and relieving the Corporation from being required to provide or maintain any insurance on account thereof.
  
5. If any component of the standard unit must be "upgraded" or changed in order to comply with any applicable governmental by-law, regulation or code while being repaired or replaced on account of insurable damage or destruction the said upgrade or change shall be considered part of the standard unit despite not being clearly defined herein as being part of the standard unit.
  
6. Nothing in this By-law shall relieve an owner of any obligation to maintain, repair and when necessary, replace any component of his or her unit as may be set out in the Act and the Corporation's Declaration, By-laws and Rules.
  
7. In the event that a fixture or construction feature is no longer available and there is a dispute as to what then may constitute a "Builder's Standard" a comparison shall be had to similar products being offered by builders of new construction at the time of damage of similar value to the unit in which or to which the damage has occurred. If there is a disagreement as to what constitutes a "Builder's Standard", the issue shall be exclusively and conclusively determined by the insurance adjuster(s) retained by and acting on behalf of the condominium's insurer and the decision of such adjuster(s) shall be binding on the condominium and all its owners and mortgagees.

The foregoing By-law is hereby passed by the Directors of the Corporation pursuant to The Condominium Act, 1998 as evidenced by the respective signatures hereto of a majority of all of the Directors.

DATED this 21st day of June, 2005.

**NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13**

  
 President JACK FOSTER  
  
 Director AVERN BROWNHILL

  
 Secretary DAVID P. KINGSTON  
  
 Director RAY CREPEAU

\_\_\_\_\_  
 Director

(SEAL)



**NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13**

**BY-LAW NO. 12**

**CONDOMINIUM ACT, 1998**

**CERTIFICATE IN RESPECT OF A BY-LAW  
(under subsection 56 (9) of the Condominium Act, 1998)**

NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13 (known as the "Corporation") certifies that:

1. The copy of By-law No. 12, attached as Scheduled "A", is a true copy of the By-law.
2. The By-law was made in accordance with the Condominium Act 1998.
3. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

Dated this *21st* day of *June*, 2005.

**NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13**

  
\_\_\_\_\_  
President *JACK FOSTER*

  
\_\_\_\_\_  
Secretary *DAVID PILKINGTON*

"We have the authority to bind the Corporation"

*NR 85462*

*Nov 24/05*

**SCHEDULE "A"**

**NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13**

**CONDOMINIUM ACT, 1998**

**BY-LAW NO. 12**

Be it enacted as a By-law of NIAGARA NORTH CONDOMINIUM CORPORATION NO. 13, (hereinafter) referred to as the "Corporation") as follows:

By-law Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the Corporation are hereby repealed in their entirety and the following substituted therefore:

**ARTICLE I  
DEFINITIONS**

1. The following terms used herein and in the By-laws of the Condominium Corporation have the meanings set out below unless the context otherwise requires:
  - (a) "auditor" means a person licensed as a public accountant under The Public Accountancy Act of Ontario;
  - (b) "Board" means the Board of Directors of the Corporation;
  - (c) "common elements" means all the property except the units;
  - (d) "common expenses" means the expenses of the performance of the objects and duties of the Corporation and any expenses specified as common expenses in the Act or in the Declaration of the Corporation;
  - (e) "common interest" means the interest in the common elements appurtenant to a unit;
  - (f) "common surplus" means the excess of all receipts of the Corporation over expenses;
  - (g) "Corporation" means the Condominium Corporation created under the Act by registration of the Declaration and the Description;
  - (h) "encumbrance" means a claim that secures the payment of money or the performance of any other obligation and includes a Mortgage and a Lien;
  - (i) "owner" means the owner or owners of the freehold estate or estates in a unit and common interest, but does not include a mortgagee unless in possession;
  - (j) "owner occupant" means the owner of an owner-occupied unit as defined by s 51(5) of the Act;
  - (k) "property" means the land and interest appurtenant to the land described in the Description and Schedule "A" of the Declaration, and includes any land and interests appurtenant to lands that are added to the common elements;
  - (l) "records" shall include those items enumerated in Section 55 of the Act and financial records prepared on behalf of the Corporation, Minutes of owners' meetings and Board meetings, as well as any amendments to the Declaration, By-laws and Rules of the Corporation;
  - (m) "reserve fund" means a fund set up by the Corporation in a special account for major repair and replacement of common elements and assets of the Corporation including, where applicable, without limiting the generality of the foregoing, roads, sidewalks, sewers and parking facilities;
  - (n) "resident" means a person who resides in a unit that is owned by him or her or by their spouse and is used as their principal residence;
  - (o) "unit" includes dwelling units, as referred to herein and means a part or parts of the land included in the Description and designated as a unit by the Description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the Declaration and Description are registered;



- (p) Other terms used herein shall have ascribed to them the definitions contained in the Condominium Act 1998 of Ontario as amended from time to time, referred to as the "Act" in this By-law.

**ARTICLE II**  
**SEAL**

1. The Corporation seal of the Corporation shall be in the form impressed herein.

(place seal here)

**ARTICLE III**  
**REGISTER**

1. The Corporation shall keep a record (hereinafter called the "register") respecting the property which shall note the name and address of the owner and mortgagee of each unit who have notified the Corporation of an entitlement to vote. The address of each owner shall be the unit address and the address of each mortgagee shall be the address shown on the mortgage or charge registered in the Land Titles Division for the Registry Office of Niagara North No. 30 at St. Catharines, ON unless the Corporation is given notice in writing of a different address by such owner or mortgagee.

**ARTICLE IV**  
**MEETINGS OF OWNERS**

1. (a) Annual Meeting:
- (i) The annual meeting of the Owners shall be held at such place within the Regional Municipality of Niagara at such time and on such day in each year as the Board may from time to time determine, for the purpose of hearing and receiving the reports and statements required by the Act, the Declaration and the By-laws of the Corporation, to be read at or laid down before the owners at an annual meeting; electing Directors; appointing the auditor; and for the transaction of such other matters relevant to the affairs and business of the Corporation.
  - (ii) The annual general meeting shall be held within (6) months of the end of each fiscal year of the Corporation.
- (b) Special Meeting:
- (i) The Board or any mortgagee holding mortgages on not less than fifteen percent (15%) of the units may at any time call a special meeting of the owners of the Corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.
  - (ii) Such meeting shall be held at such time and at such place within the said Regional Municipality of Niagara as may be determined by the Board.
- (c) Requisitioned Meeting:
- (i) The Board shall also call and hold a special meeting of the owners upon receipt of a requisition in writing to the Board stating the nature of the business to be presented at the meeting and signed by the requisitionists and delivered personally or mailed by registered mail to the President or Secretary of the Corporation or

deposited at the address for service of the Corporation within thirty-five (35) days of receipt of such notice;

- (ii) The requisition must be signed by owners of the Corporation who together own at least fifteen percent (15%) of the units and who are listed in the register of the Corporation and are entitled to vote;
- (iii) The notice calling the meeting shall state the nature of the business to be presented at the meeting as requisitioned by the owners and include a copy of the requisition. If the nature of the business to be presented at the meeting includes the removal of one or more Directors the requisition shall state the name of each Director who is proposed to be removed, the reasons why that Director is to be removed and whether that Director occupies the position on the Board reserved for voting by owner-occupants;
- (iv) If the requisitionist's request it in the requisition or consent in writing after the requisition has been made, the business to be presented at the meeting shall be added to the agenda of the next annual general meeting of the owners;
- (v) If the Board does not, within thirty-five (35) days after receipt of such requisition call and hold such meeting, any of the requisitionists may call such meeting which shall be held within forty-five (45) days of the day the meeting is called.

2. Notices:

- (a) Notice of the date, hour, place of, and nature of the business to be presented for each annual, requisitioned or special meeting shall be given in accordance with Article X at least fifteen (15) days before the day on which the meeting is to be held to the auditor of the Corporation, and to each owner and mortgagee whose name and address for service is entered in the Corporation's register as of the twentieth (20<sup>th</sup>) day prior to the day of the meeting;
- (b) A notice of meeting hereinbefore required shall have appended to it an agenda of matters to be considered at such meeting and no vote may be taken, motion made or consent or approval given in respect of any matter that is not included in the agenda for such meeting other than for routine procedural matters. The notice shall also include a copy of all proposed changes to the Declaration, By-laws, Rules or agreements that are to be discussed at the meeting. If the notice is issued for a meeting requisitioned by the owners, it must contain a copy of the requisition;
- (c) The Notice given for the annual general meeting shall contain a copy of the Financial Statements for the Corporation approved by the Board in accordance with the Act and a copy of the Auditor's Report;
- (d) The Notice of a meeting at which one or more Directors are to be elected shall include the name and address of each individual who has notified the Corporation in writing of their intention to be a candidate in the election no later than the fourth day prior to the date the Notice of the meeting is to be sent. If the position on the Board to be voted upon is that of the owner-occupant Director, any person wishing to be a candidate for that position may notify the Corporation of their intention to be a candidate for that position no later than the 4<sup>th</sup> day prior to the date upon which the Notice for the meeting is to be sent. The Corporation will endeavour to provide at least thirty (30) days prior notification to the owners of the date upon which notice is to be issued except in the case of a meeting that is requisitioned by the owners. Notwithstanding the foregoing, the failure of the Corporation to provide such notification shall not in any way affect the validity of the Notice of the meeting nor the meeting for which the notice was issued.

3. Persons Entitled to be Present:

The only persons entitled to attend a meeting of owners shall be the owners and mortgagees whose names and address for service were entered on the register for the Corporation as of the twentieth (20<sup>th</sup>) day prior to the date of the

meeting and are entitled to vote, their proxies, the auditor, and other who, although not entitled to vote, are entitled or required under the provisions of the Act or the Declaration and Bylaws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the Chairperson of the meeting or with the consent of the meeting.

4. Quorum:

- (a) At any meeting of owners, a quorum shall be constituted when a person entitled to vote and owning not less than twenty-five percent (25%) of the units are present in person, or represented by proxy, at such meeting.
- (b) To be counted towards the quorum of a meeting an owner must have been entitled to receive notice of the meeting, be entitled to vote at the meeting and be present in person or by proxy.

5. Right to Vote:

- (a) At each meeting of owners, every owner shall be entitled to vote who is entered on the register as an owner of a dwelling unit subject to paragraph 3 of this Article.
- (b) If a unit has been mortgaged, the owner of the unit (or proxy) may vote in respect of it unless, under the terms of the mortgage, the mortgagee was expressly authorized to vote in the place of the unit owner, the mortgagee is otherwise entitled to vote and the mortgagee has notified the Corporation and the owner of its intention to exercise such right at least four (4) days before the date specified in the notice of the meeting in which case such mortgagee (or proxy) may attend meetings and vote in respect of such unit, upon filing with the Secretary of the meeting sufficient proof of the terms of such instrument and notice to the owner. Any dispute over the right to vote shall be resolved by the Chairperson of the meeting upon such evidence as may be deemed sufficient.
- (c) At any meeting of the owners, every owner or mortgagee shall have the right to cast one (1) vote for each such unit registered in the name of the owner, provided that if a unit or a mortgage on a unit is owned by two persons, both of them must agree or, where the unit or mortgage is owned by more than two persons, a majority must agree as to the manner in which the vote applicable to their unit is to be cast, otherwise the vote in respect of that unit shall not be counted.

6. Loss of Right to Vote:

- (a) An owner or mortgagee of a unit is not entitled to vote at any meeting if any contributions payable in respect of the unit have been in arrears for thirty (30) days or more at the time of the meeting. The owner or mortgagee of a unit that is in arrears of the contributions payable in respect of the unit may tender payment in full, together with interest as set out in this By-law and such other reasonable costs as the Corporation may be entitled to in respect of such arrears, at any time prior to the commencement of such meeting provided that such payment shall be in cash or by certified cheque or bank draft payable to the Corporation and dated on or before the same date as the meeting provided that the Chairperson of the meeting shall have the right, exercising absolute discretion, to allow payment of such arrears by ordinary cheque;
- (b) An owner or mortgagee shall not be entitled to vote at a meeting if the owner or mortgagee was not entitled to receive notice of the meeting in accordance with the Act and this By-law.

7. Conduct of Meetings:

- (a) At any general or special meeting, the President of the Corporation, or failing the President, the Vice-President, or failing the Vice-President, some person elected at the meeting, shall act as Chairperson of the meeting, provided that the Chairperson may, whenever the Chairperson believes in his or her sole discretion, it is appropriate in the circumstances to do so, appoint the Corporation's Manager or Solicitor to chair all or part

of the meeting of the owners. The Secretary of the Corporation shall act as Secretary of the meeting or, failing the Secretary, the Chairperson shall appoint a Secretary of the meeting.

- (b) Unless the Act, the Declaration or the By-laws of the Corporation provide otherwise, any question as to: the calling of the meeting; the right to vote at a meeting; the validity of proxies presented at the meeting; the method used to vote or the validity of any vote held at a meeting; or the rules or order for a meeting shall be decided by the Chairperson;
- (c) In rendering a decision, the Chairperson may make reference to Wainberg's Company Meetings including Rules of Order and/or Wainberg's Society Meeting including Rules of Order, for assistance in determining any question or procedure as to the Rules of Order for a meeting.

8. Method of Voting – General Matters:

Any question raised at a general, special or requisitioned meeting shall be decided by a show of hands unless recorded vote is required by the Chairperson of the meeting or is demanded by an owner or mortgagee present in person or by proxy and entitled to vote either before or promptly after the vote, and unless a recorded vote is so required or demanded, a declaration by the Chairperson of the meeting that the vote upon the question has been carried, or carried by a particular majority, or not carried, is prima facie proof of the fact without proof of the number or proportion of votes recorded in favour of or against such question.

9. Method of Voting – For Directors:

- (a) If the number of candidates nominated for the position of Director is equal to the number of positions available at a meeting, and nominations have been properly closed, the Chairperson may declare the candidates so nominated shall be elected to the office directly by acclamation.
- (b) If there are more candidates nominated for the position of Director than there are vacancies to be filled at any meeting, the vote for the election of Directors shall be made by ballot and by proxy only in the following manner:
  - (i) a ballot shall be given to every owner or mortgagee present in person and entitled to vote which ballot may either be a blank paper or paper containing the names of the persons nominated;
  - (ii) if it is a blank ballot, those persons entitled to vote shall write the names of the candidates of their choice on the paper or if it is a printed ballot, they shall mark an "x", check mark or make some other clear indication of their choice opposite the candidates of their choice. If it is a blank ballot, the persons entitled to vote shall not write the name of a candidate on such ballot more than once;
  - (iii) if a valid proxy is submitted for the election of Directors it shall, in accordance with the Act, include the name of the candidate(s) that the donor of the proxy wishes to vote for and such proxies shall be counted in the election of the Directors in the same fashion as a ballot and the proxy holder shall not receive a ballot for the election of Directors in respect of such proxy;
  - (iv) if a valid proxy is submitted at a meeting where Directors are to be elected but does not contain the names of any of the candidates, it may not be used for the election of any Director, including those that may be nominated from the floor, but the proxy holder will be entitled to exercise the right to vote for each proxy he or she holds for other matters listed in the agenda or otherwise properly brought before the meeting;
  - (v) if a meeting is held at which the position on the Board that is reserved for a Director that is to be elected only by the owner-occupants, (the "owner-occupant Board position"), then only the owner-occupants may vote for that position using a ballot that includes a statement on it indicating that it is to be used for the election of the owner-occupant Board position or by a valid proxy

that conforms with the procedures noted above and clearly identifies the candidate for the owner-occupant Board position that the donor of the proxy wishes to vote for.

- (vi) at a meeting of owners at which, due to a vacancy on the Board two or more positions on the Board must be filled one of which is the owner occupant position, an individual may stand for the election for both the owner-occupant position on the Board and that of a regular Board position. If an election is to take place for both positions, the election for the owner-occupant position must take place first. Anyone who has stated an intention to stand for election for both positions and given notice as required by subsection 28(2) and (3) of the Act and who is elected to fill the owner-occupant position on the Board is deemed to have withdrawn his or her candidacy for the regular Board position(s). However, if the said individual is not elected to the owner-occupant position on the Board, such individual may then be considered for the regular position(s) available on the Board to be elected following the election for the owner-occupant position on the Board.
- (vii) If a meeting is called at which a vote is to be held to remove a Director or Directors prior to the end of their term the level of vote required to remove such Director(s) shall be those owners who represent a majority of all of the units in the Corporation and proxies submitted for such meetings must include the name of the Director(s) that the donor of the proxy wishes to vote to remove or not to remove and the names of those candidates that the proxy donor wishes to vote to elect to fill any vacant positions that arise because of the removal of a Director. If a Director to be removed is one that holds the owner-occupant position on the Board the proxy donor must also indicate on the proxy the name of the candidate they wish to vote to elect to that position should it become vacant due to the removal of a Director.

(c) Nominations:

- (i) Any person who is otherwise qualified to be a Director in accordance with this By-law may be nominated as a candidate for election to the Board of Directors and such nominations do not require a seconder;
- (ii) Any owner may nominate himself/herself;
- (iii) Any notification received from the Board in accordance with paragraph 2(d) of this Article IV shall be considered a valid nomination of the person(s) named in such notification;
- (iv) A proxy that is provided by an owner for a meeting at which one or more Directors are to be elected that contains the names of one or more candidates for those positions shall be considered as a valid nomination of those candidates named in the proxy;
- (v) Only those owners present in person at the meeting shall be entitled to vote for candidates who are nominated from the floor at the meeting.

10. Scrutineers:

The Chairperson may appoint scrutineers to assist in collecting, examining and counting the ballots but only the Chairperson may rule on the validity of a ballot or proxy.

11. Representatives:

A committee of a mentally incompetent owner or mortgagee, an estate trustee, attorney, guardian or trustee of an owner or mortgagee and, where a Corporation acts in such capacity, any person duly appointed by proxy for such Corporation, upon filing with the Secretary of the meeting sufficient proof of such appointment, may represent the owner or mortgagee at a meeting of the owners of the Corporation, and may vote in the same manner and to the same extent as

an owner or mortgagee. If there be more than one estate trustee, committee, attorney, guardian or trustee, the provisions of paragraphs 5 and 6 of this Article shall apply.

12. Proxies:

- (a) The instrument appointing a proxy shall be in writing, dated, identify the particular meeting for which it is to be used and be signed by the owner or mortgagee or its attorney authorized in writing. A photocopy or facsimile copy of a proxy that is otherwise valid and is legible shall be accepted.
- (b) The instrument appointing a proxy shall be deposited with the Secretary of the meeting prior to the commencement of the meeting.
- (c) Proxies used at meetings where Directors are to be removed and/or elected shall also conform with the requirements of the Act and this Article.
- (d) Any question as to the validity of a proxy shall be decided by the Chairperson of the meeting.
- (e) Proxies submitted for a meeting of the owners shall be retained by the Corporation as a record for a period of ninety (90) days from the date of the meeting.
- (f) The Corporation may use a form of proxy that contains provisions allowing the donor of the proxy to direct the manner in which his or her proxy is to be voted in respect of any matter to be voted upon as set out in the notice and agenda issued for the meeting. If such a proxy form is used and the donor does not indicate how his or her vote is to be directed, the proxy holder shall be entitled to vote the proxy in such fashion as he or she may decide for the matters set out in the agenda for the meeting other than the election of the Directors.

13. Votes to Govern:

At all meetings of owners every question shall, unless otherwise required by the Act, Declaration or By-laws, be decided by a majority of the votes duly cast on the question by those owners who are present, in person or by proxy, at the meeting and are entitled to vote.

14. Adjournment of Meeting:

The Chairperson at a meeting of owners may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn the meeting from time to time and from place to place, provided that the calling and holding of such meeting shall be governed by the Act and this By-law.

## **ARTICLE V** **THE CORPORATION**

1. Duties of the Corporation:

The duties of the Corporation shall include but shall not be limited to the following:

- (a) controlling, managing and administering the common elements and the assets of the Corporation;
- (b) collecting the common element charges from the owners;
- (c) arranging for the supply of natural gas, hydro and water to the Corporation and common elements except where the Corporation is prevented from carrying out such duty by reason of any event beyond the reasonable control of the Corporation. If any apparatus or equipment used in effecting the supply of natural gas, hydro or water at any time becomes incapable of fulfilling its function or is damaged or destroyed, the Corporation shall have a reasonable time within which to repair or replace such apparatus and the Corporation shall not be liable for indirect or

- consequential damages or for damages for personal discomfort or illness by reason of the breach of such duty;
- (d) obtaining and maintaining insurance for the property as may be required by the Act, Declaration and By-laws;
  - (e) repairing and restoring of the common elements in accordance with the provision of the Act, Declaration and By-laws;
  - (f) obtaining and maintaining fidelity bonds when it is considered appropriate to do so by the Board, in such amounts as the Board may deem reasonable, for such officers and Directors or employees as are authorized to receive or disburse any funds on behalf of the Corporation;
  - (g) causing audits to be made every year and making auditors' reports and financial statements available to the owners and mortgagees;
  - (h) preparation of an estimated budget in accordance with Article XI hereof;
  - (i) keeping accurate accounts and sending to each unit owner an annual statement of income and expenditures in respect thereto and keeping such accounts open for inspection by unit owners, or any of them;
  - (j) effecting compliance with the Act, the Declaration, the By-laws and the Rules from time to time;
  - (k) maintaining a register of the owners and mortgagees in accordance with the Act and Article III hereof;
  - (l) keeping accurate records;
  - (m) establishing and maintaining one or more reserve funds and obtaining a Comprehensive Reserve Fund Study or update of it in accordance with the Act.

2. Powers of the Corporation:

The powers of the Corporation shall include but shall not be limited to the following:

- (a) employment and dismissal of personnel necessary for the maintenance and operation of the common elements;
- (b) adoption, amendment and repeal of Rules concerning the operation and use of the property;
- (c) employing a manager at a compensation to be determined by the Board to perform such duties and services as the Board shall authorize;
- (d) obtaining and maintaining fidelity bonds for any manager where deemed necessary by the Board, and in such a manner as the Board may deem reasonable;
- (e) investing operating reserves held by the Corporation, provided that such investment shall be permitted by Section 115 of the Act and amendments thereto, and convertible into cash within ninety (90) days;
- (f) settling, adjusting, compromising or referring to mediation, arbitration or the courts any dispute, claim or claims which may be made upon or on behalf of the Corporation;
- (g) borrowing such amounts as in its discretion are necessary or desirable in order to protect, maintain, preserve or insure the due and continued operation of the property in accordance with the Declaration and By-laws of the Corporation, and securing any such loan by mortgage, pledge or charge of any asset owned by the Corporation, and adding the repayment of such loan to common expenses, subject to the passage of a By-law authorizing each such borrowing for expenditures that are not listed in the annual budget for the Corporation;
- (h) retaining and holding any securities or other property, whether real or personal, which shall be received by the Corporation, provided they are authorized by the Act, for the investment of corporate funds;
- (i) selling, conveying, exchanging, assigning or otherwise dealing with any real or personal property at any time owned by the Corporation at such price, on such terms, and in such manner as the Corporation in its sole discretion deems advisable and doing all things and executing all documents required to give effect to the foregoing;

- (j) leasing any part or parts of the common elements and granting or transferring an easement or license through the common elements subject to the passing of a By-law for such lease, easement or license;
- (k) to object and/or appeal assessments under the Assessments Act on behalf of owners in respect of their units in accordance with Article XIX;
- (l) to enter into any service agreement, contract, bulk billing arrangement or other contract for the provision of services to the Corporation or the units the cost of which shall form part of the common expenses.

**ARTICLE VI**  
**BOARD OF DIRECTORS**

1. Business:  
The affairs of the Corporation shall be managed by a Board of Directors.
2. Quorum:
  - (a) Until changed by a By-law, the number of Directors shall be five (5) of whom three (3) shall constitute a quorum for the transaction of business at any meeting of the Board. Notwithstanding vacancies, the remaining Directors may exercise all the powers of the Board so long as a quorum of the Board remains in office.
  - (b) If a Director is absent from a meeting, such Director may for the purposes of constituting a quorum and for the transaction of business at any meeting of the Board, be deemed to be present and the Board shall be properly constituted if such Director participates in the meeting by teleconference or other telecommunications system to communicate with all other Board members present during such meeting simultaneously and instantaneously at all times throughout the meeting and the other Directors have agreed to such method of participation.
3. Qualifications:
  - (a) Each Director shall be eighteen (18) or more years of age, must be an owner or a spouse of an owner, must not reside with a current Director and must not have a certificate of lien registered against a unit owned by him or her as of the date of the meeting at which he or she stands for election to the Board of Directors and no undischarged bankrupt or mentally incompetent person shall be a Director.
  - (b) A Director shall cease to be a Director if he or she:
    - (i) becomes a bankrupt or a mentally incompetent person;
    - (ii) has a certificate of lien registered against a unit owned by him or her and such lien has not been discharged from the Director's unit within ninety (90) days from the date of its registration;
    - (iii) commences a lawsuit, application or other legal proceeding against the Corporation or upon the Corporation commencing a lawsuit, application or other legal proceeding against him or her (for the purpose of this provision "other legal proceeding" shall not include mediation in accordance with Section 132 of the Act or a claim in accordance with Section 55(10) of the Act);
    - (iv) is adjudged by a court of competent jurisdiction to be in breach of the duty to act honestly and in good faith in the performance of his or her duties of the Corporation;
    - (v) fails to attend a majority of the regularly scheduled Board meetings in any given fiscal year of the Corporation without reasonable justification and the Board of Directors shall, in its sole discretion, determine whether the reason for such absenteeism was justified;
    - (vi) begins to reside with another Director, in which case of those two Directors one or the other, as they may decide between themselves, shall cease to be a Director, failing which the one with the shortest term of office remaining shall cease to be a Director,



and in either event their term of office shall end effective at the first meeting of the Board of Directors following the date upon which the Directors began to reside with each other;

(vii) Ceases to be an owner, or a spouse of an owner.

4. Election and Term:

The terms of office for Directors that existed at the date of the meeting at which this By-law was approved by the owners shall continue so as to maintain the rotation system of Director's terms originally established for the Corporation.

At each annual meeting the number of Directors equal to the number of Directors retiring in such year shall be elected for a term of three (3) years. In subsequent elections where there is, for any reason, more than one vacancy on the Board to be filled the candidate receiving the highest number of votes shall fill the vacancy on the Board which has the longest term, and in the event of an election by acclamation the Directors shall decide amongst themselves who shall fill such terms. Provided that if one of the terms to be filled is that of Owner-Occupant Director, the Director so elected by the owner occupants shall complete the term of the existing Owner-Occupant Director.

5. Removal of Directors:

A Director may be removed before the expiration of the Director's term by a vote of owners who together own a majority of all of the units in the Corporation. The owners may elect any person qualified to be a member of the Board under the Declaration or By-laws for the remainder of the term of the Director removed, (also see Article IV regarding requisitioned meetings and proxies).

6. Filling of Vacancies:

If a vacancy in the membership of the Board occurs, the majority of the remaining members of the Board may appoint any person qualified to be a member of the Board in accordance with this By-law to fill the vacancy until the next annual general meeting at which time the vacancy shall be filled by election by the owners.

7. Calling of Meetings:

Meetings of the Board shall be held from time to time at such place and at such time and on such day as a quorum of Directors may determine. Notice of any meeting so called shall be given personally, by ordinary mail, by courier delivery, or electronic communication (e.g. fax or email) to each Director addressed to the Director's latest address entered on the register of the Corporation not less than forty-eight (48) hours (excluding any part of a Sunday or a holiday as defined by the Interpretation Act of Canada for the time being in force) before the time when the meeting is to be held, save that no notice of a meeting shall be necessary if all the Directors are present and consent to the holding of such meeting, or if those absent have waived notice of or otherwise signified in writing their consent to the holding of such meeting.

8. Regular Meetings:

The Board may appoint a day or days in any month or months for regular meetings at a place and hour to be named. A copy of any resolution of the Board fixing a place and time of regular meetings of the Board shall be given personally, by ordinary mail or electronic communication (e.g. fax or email) to each Director forthwith after being passed, but no other notice or agenda shall be required for any such regular meeting.

9. First Meeting of the Board after the Annual Meeting:

The Board may without notice, hold a meeting for the purpose of the election and appointment of officers immediately following each annual general meeting, provided a quorum of Directors be present:

10. Interest of Directors in Contracts:  
No Director shall be disqualified by their office from contracting with the Corporation, nor shall any contract or arrangement entered into by or on behalf of the Corporation with any Director or any firm or Corporation in which any Director is in any way interested be avoided, nor shall any Director so contracting or being so interested be liable to account to the Corporation for any profit realized by any such contract or arrangement by reason of such Director holding such office or of the fiduciary relationship thereby established provided that the provisions of paragraph 11 of this Article VI are complied with.
11. Declaration of Interest:  
It shall be the duty of every Director of the Corporation who has, in any way, either directly or indirectly, a material interest in a contract or transaction to which the Corporation is or is to be party to declare such interest at a meeting of the Directors of the Corporation in accordance with Section 40 of the Act, as amended, and to refrain from voting in respect thereto and such Director shall not in respect of such contract or transaction be counted in the quorum of the Board.
12. Standards of Care of Directors:  
Every Director of the Corporation shall exercise the powers and discharge the duties of the office honestly and in good faith and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in similar circumstances.
13. Indemnity of Directors and Officers:  
Subject to Section 38 of the Act, as amended, every Director or officer of the Corporation and their heirs, estate trustee(s) and estate respectively shall from time to time and at all times be indemnified and saved harmless from and against:
- (a) any liability and all costs, charges and expenses whatsoever which such Director or officer sustains or incurs in respect of any action, suit or proceeding that is proposed or is brought, commenced or prosecuted against the Director for or in respect of anything done or permitted by the Director in or about the execution of the duties of the Director's office; and
  - (b) all other reasonable costs, charges and expenses which the Director sustains or incurs in or about or in relation to the affairs thereof;
- except where such Director has been held by a court of competent jurisdiction to have breached the duty to act honestly and in good faith.
14. Directors and Officers Insurance:  
If the insurance is reasonably available, the Corporation shall purchase and maintain insurance for the benefit of the Directors and Officers against the matters described in Section 38 (1)(a) and (b) of the Act and paragraph 13 of Article VI.
15. Compensation:  
The Directors shall receive such compensation as may from time to time be decided by By-law provided that the By-law shall fix the compensation and state the period, not to exceed three (3) years for which it is to be paid.

## **ARTICLE VII OFFICERS**

1. Elected Officers:  
At the first meeting of the Board after each election of Directors, the Board shall elect from among its members a President. In default of such election the then

incumbent, if a member of the Board, shall hold office until a successor is elected. A vacancy occurring from time to time in such office may be filled by the Board from among its members.

2. Appointed Officers:

From time to time the Board shall appoint a Secretary and may appoint one or more Vice-Presidents, a Treasurer and such other officers as the Board may determine, including one or more assistants to any of the officers so appointed. The officer so appointed may, but need not, be a member of the Board. One person may hold more than one office, and if the same person holds both the office of Secretary and the office of Treasurer, their title shall be Secretary-Treasurer.

3. Term of Office:

In the absence of the written agreement to the contrary, the Board may remove at its pleasure any officer of the Corporation.

4. President:

The President may, when present, preside at all meetings of the owners and of the Board, and shall be charged with the general supervision of the business and affairs of the Corporation.

5. Vice-President:

During the absence of the President, the duties of that office may be performed and powers may be exercised by the Vice-President, or if there are more than one, by the Vice-Presidents, in order of seniority (as determined by the Board) save that no Vice-President shall preside at a meeting of the Board or at a meeting of owners who is not qualified to attend the meeting as Director or owner, as the case may be. If a Vice-President exercises any such duty or power, the absence of the President shall be presumed with reference thereto. A Vice-President shall also perform such duties and exercise such powers as the Board may prescribe.

6. Secretary:

The Secretary shall:

- (a) give or cause to be given all notices required to be given to the owners, Directors, auditors, mortgagees and all others entitled thereto;
- (b) attend all meetings of the Directors and of the owners and shall enter or cause to be entered in books kept for that purpose minutes of all proceedings at such meetings;
- (c) be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation;
- (d) perform such other duties as may from time to time be prescribed by the Board.

7. Treasurer:

The Treasurer shall:

- (a) keep or cause to be kept complete and accurate books of account in which shall be recorded all receipts and disbursements of the Corporation;
- (b) under the direction of the Board, control the deposit of money, the safekeeping of securities and the disbursement of the funds of the Corporation;
- (c) render to the Board at the meeting thereof, or whenever required of him, an account of all transactions as Treasurer, and of the financial position of the Corporation.

8. Other Officers:

The duties of all other officers of the Corporation shall be such as the terms of their engagement call for, or the Board requires of them. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant unless the Board otherwise directs.

9. Agents and Attorneys:  
The Board shall have power from time to time to appoint agents or attorneys for the Corporation with such powers of management or otherwise (including the power to sub-delegate) as may be thought fit.
10. Standards of Care of Officers:  
Every officer of the Corporation shall exercise the powers and discharge their duties honestly and in good faith and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in similar circumstances.

**ARTICLE VIII**  
**BANKING ARRANGEMENTS & CONTRACTS**

1. Banking Arrangements:  
The banking business of the Corporation or any part thereof shall be transacted with such bank, trust company or credit union as the Board may designate, appoint or authorize from time to time by resolution, and all such banking business, or any part thereof, shall be transacted on the Corporation's behalf by such one or more officers or other persons as the Board may designate, direct or authorize from time to time by resolution and, to the extent therein provided, including, without restricting the generality of the foregoing, the operation of the Corporation's accounts, the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders relating to any property of the Corporation; the execution of any agreement relating to any such banking business and defining the rights and powers of the parties thereto; and the authorizing of any officer of such bank to do any act or thing on the Corporation's behalf to facilitate such banking business.
2. Execution of Instruments:  
Deeds, transfers, assignments, contracts and obligations on behalf of the Corporation may be signed by the President or a Vice-President together with the Secretary or any other Director. Any contract or obligation within the scope of any Management Agreement entered into by the Corporation may be executed on behalf of the Corporation in accordance with the provisions of such Management Agreement. Notwithstanding any provisions to the contrary contained in the By-laws of the Corporation, the Board may at any time and from time to time direct the manner in which, and the person or persons by whom, any particular deed, transfer, contract or obligation or any class of deeds, transfers, contracts or obligations of the Corporation may or shall be signed.
3. Execution of Status Certificates Under Section 76(1) of the Act:  
Certificates provided pursuant to Subsection 1 of Section 76 of the Act, as amended may be signed by any officer or any Director of the Corporation provided that the Board may by resolution at any time and from time to time direct the manner in which, and the person by whom, such certificates may or shall be signed.
4. Borrowing:  
The Corporation is hereby authorized, at such time as the Board may determine, to enter into an overdraft agreement, line of credit or other credit facility in an amount that shall not exceed TWENTY THOUSAND -----(\$20,000.00) -----XX/100 DOLLARS with such lending institution and on such terms and conditions as the Board, in its sole discretion, deems appropriate. Such borrowing facility is to be used only for funding unexpected common expenditures not anticipated by, or not adequately provided for in the operating budget for the Corporation on a temporary basis. Such moneys that are borrowed under this facility shall be repaid in full prior to the fiscal year end of the Corporation within which they

were borrowed failing which the principal amount then outstanding shall be incorporated into the next fiscal year's budget as a separate item and the common expenses shall be increased by whatever amount is necessary to repay such moneys in full within the first quarter of that fiscal year.

### **ARTICLE IX REPORTS AND RECORDS**

1. Until otherwise ordered by the Board, the financial year of the Corporation shall end on the 31st day of December each year, or on such other day as the Board by resolution may determine.
2. The Corporation shall, at such regular intervals, as the Board may from time to time decide, but not less frequently than annually, forward to each owner a full and complete statement of the receipts and expenditures of common expenses and a balance sheet with respect to the common expenses and similar statements with respect to the reserve fund. All such statements are referred to in this By-law as regular periodic statements. The Corporation shall, furnish, without charge, upon being requested to do so, but not more than once in each calendar year, to the holder of a mortgage on a unit, a copy of the most current regular periodic statements, and shall furnish copies of any additional regular periodic statements requested, upon payment of a reasonable charge therefor, as the Board may from time to time establish.
3. Every owner of a unit, upon becoming an owner, shall, on request, be furnished by the Corporation, upon payment of a reasonable charge therefor as the Board may from time to time establish, with a copy of the Declaration, By-laws and Rules and all amendments thereto, of the Corporation. Additional copies of the Declaration, By-laws and Rules as amended, shall be furnished by the Corporation to any owner upon payment of such reasonable charge therefor as the Board may from time to time establish.
4. Owners are entitled to review the Corporation's records subject to the restrictions imposed by Section 55(4) of the Act. Owners shall submit a written request to the Corporation for access to the records indicating what records they wish to review and the reason for reviewing such records. Such request must be delivered to the Corporation at its address for service at least forty-eight (48) hours (not including weekends or statutory holidays) in advance of the date on which the owner wishes to review the records. The time during which the records will be available for review will be between the hours of 9:00 a.m. and 5:00 p.m. on any day except weekends and statutory holidays unless otherwise agreed to by the Board. Owners must attend at the location where the records are typically stored to review them unless the Board agrees otherwise. The Corporation shall within a reasonable period of time, provide copies of the records that the owner has examined if the owner requests them and has paid a reasonable fee to compensate the Corporation for the labour and copying charges. The Corporation reserves the right to charge the owner for any other reasonable costs it incurs in making records available for review.

### **ARTICLE X NOTICE**

1. Method of Giving Notice by the Corporation:  
Any notice, communication or other document, including notices of assessments required to be given or delivered by the Corporation, shall be sufficiently given if delivered personally to the person to whom it is to be given, or if mailed by prepaid mail in a sealed envelope addressed to such person at the address noted

in the register. Any notice, communication or other document to be given by the Corporation to any other person entitled to notice and who is not an owner shall be given to such person in the manner aforesaid to the address shown on the register. Such notice, communication or document shall be deemed to have been given when it is delivered personally or mailed to the address aforesaid or by electronic mail (e.g. fax or email) on consent of the owner from time to time. Provided that a notice, communication or document so mailed shall be deemed to have been given when deposited in a post box or public letter box.

2. Notice to the Board or Corporation:

Any notice, communication or other document to be given to the Board or the Corporation shall be sufficiently given if mailed by prepaid mail in a sealed envelope addressed to it at the address for service of the Corporation set out in the Declaration, or as changed in accordance with the requirements of the Act. Any notice, communication or document so mailed shall be deemed to have been given when deposited in a post office or public letter box provided that a requisition for an owner's meeting may be delivered in the manner described in Article IV.

3. Omissions and Errors:

The accidental omission to give any notice to anyone entitled thereto or the non-receipt of such notice or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

## **ARTICLE XI**

### **ASSESSMENT AND COLLECTION OF COMMON EXPENSES**

1. Duties of the Board:

(a) All expenses, charges and costs of maintenance or replacement of the common elements and other expenses, charges or costs which the Corporation may incur or expend pursuant hereto shall be assessed by the Board and levied as a monthly common expense or as an extraordinary expenditure against the owners in the proportions in which they are required to contribute to the common expenses as set forth in the Declaration.

(b) The Corporation shall, at least thirty (30) days prior to each financial year end, prepare a budget for the property and determine by estimate the amount of common expenses for the next ensuing fiscal year, or remainder of the current fiscal year, as the case may be. The Board shall allocate and assess such common expenses as set out in the budget for such period among the owners, according to the proportion in which they are required to contribute to the common expenses as set forth in the Declaration. In addition, the Board shall provide in the annual budget a reserve fund in accordance with the Act which reserve fund shall be an asset of the Corporation. The Board shall advise all owners promptly in writing of the amount of common expenses payable by each of them respectively determined as aforesaid, and shall deliver or mail by prepaid mail copies of each budget on which such common expenses are based to all owners entered on the register, and to all mortgagees entered on the register provided that such mortgagees have delivered to the Board a requisition, in writing, requesting a copy of each budget of the Corporation.

(c) Extraordinary expenditures not contemplated in the foregoing budget and for which the Board shall not have sufficient funds may be assessed, at any time during the year in addition to the annual assessment, by the Board serving notice of such further assessment on all owners which shall include a written statement setting out the reasons for the extraordinary assessment. Such extraordinary assessment shall be payable by each

owner within ten (10) days after notice thereof has been given or delivered to such owner, or within such further period of time and in such installments as the Board may determine, as an additional common expense and which is enforceable as such.

- (d) Any payment tendered to the Corporation by an owner or mortgagee for monthly common expenses or extraordinary expenditures shall, where default has been made in the obligation to contribute the common expenses or extraordinary expenses for a unit to the Corporation has previously been made, be applied firstly, to interest; secondly, to late payment charges; thirdly, to costs, legal fees, expenses and disbursements incurred by the Corporation in enforcing payment, and fourthly, towards the most aged common expenses or extraordinary expenditures as may be owing to the Corporation for the unit but nothing in this provision shall preclude the Corporation's rights under Article XI to enforce payment of any outstanding common expense contributions or extraordinary expenditures at any time.

2. Owner's Obligations:

- (a) Each owner shall be obliged to pay to the Corporation, or as it may direct, the amount of the common expenses assessed for their unit in equal monthly payments on the first day of each and every month next following delivery of such assessment until such time as a new assessment shall have been delivered to such owner.
- (b) Each owner shall deliver to the Corporation postdated cheques for the equal monthly payments, prior to the commencement of each fiscal year of the Corporation or as the Board may direct from time to time or, at the request of the Corporation, enter into such Pre-Authorized Payment Plan for automatic withdrawal of such monthly payments as the Corporation may implement from time to time.

3. Conveyance of Unit:

No owner shall be liable for the payment of any part of the common expenses assessed against their unit prior to a transfer of such unit but payable subsequent thereto, provided that the owner to which the unit is transferred shall be liable to pay such common expenses.

4. Default in Payment of Assessment:

- (a) Arrears of any payments owing to the Corporation required to be made under the provisions of this Article XI and the Act may bear interest at the rate of EIGHTEEN (18%) percent per annum, and may be compounded monthly until paid.
- (b) Each owner who defaults in their obligation to contribute to the Corporation under the provisions of Article XI shall reimburse the Corporation for administration charges for non-negotiable cheques, legal expenses and other late payment charges incurred by the Corporation for each month the owner is in default, and such charges will be in addition to the interest payable pursuant to this By-law and shall also be deemed to constitute a reasonable charge incurred by the Corporation in collecting any unpaid common expenses within the meaning of the Act.
- (c) If the Corporation registers a Notice of Lien as provided by the Act upon an owner defaulting in their obligation to contribute to the Corporation towards the common expenses under this Article XI and the Act, the owner shall reimburse the Corporation for all costs, legal fees, (determined on the basis of costs as between a solicitor and its own client), expenses and disbursements, (and all applicable sales taxes) incurred by the Corporation for preparing and issuing the Notice of Lien to Owner and in preparing and registering the Notice of Lien and a Discharge of Lien thereof. All payments upon account shall be applied firstly to interest; secondly, to late payment charges; thirdly, to costs, legal fees, expenses and disbursements incurred by the Corporation in registering the Notice of Lien and a Discharge thereof (which may themselves bear

the interest at a rate of EIGHTEEN (18%) percent per annum compounded monthly until paid); and fourthly, to the most aged arrears of payments required to be made under the provision of this Article XI and the Act. In addition to any remedies or liens provided by the Act, if any owner is in default in payment of any assessment levied, or payment of its common element expenses for a period of ten (10) days, the Corporation may institute such legal action and proceedings as it deems proper or advisable to enforce collection thereof, and there shall be added to any amount found due all costs of such action including costs as between a solicitor and its own client (which may themselves bear interest at the rate of EIGHTEEN (18%) percent per annum to be compounded monthly until paid) expenses and disbursements (including all applicable sales taxes).

## **ARTICLE XII DEFAULT**

1. Notice of Unpaid Common Expenses:  
The Corporation whenever so requested in writing by an owner or mortgagee entered on the register shall promptly report any unpaid common expenses, due from, or any other default by, such owner and any common expenses assessed or other money claimed by the Corporation against such owner.
2. Notice of Default:  
The Corporation shall deliver a "Notice of Lien to Owner" in the form prescribed by the Act at least ten (10) days prior to registering a lien against the owner's unit for unpaid common expenses.

## **ARTICLE XIII DAMAGE**

1. Procedure Where Damage Occurs:  
Subject to Section 123 of the Act, where the Board has determined that there has been substantial damage to the buildings for which the cost of repair is estimated to equal or exceed 25% of the replacement cost of all of the buildings and structures located on the property, the Board shall give notice of such determination within ten (10) days of the determination to all owners and mortgagees entered on the register kept for such purposes, with such notice to the mortgagees to be sent by registered mail. Such notice may be combined with notice to the owners of a meeting called for the purpose of voting for repair, or termination of the Corporation.
2. Plans and Specifications:  
A complete set of all the original architectural and structural plans and specifications for the buildings, including plans and specifications for any additions, alterations or improvements from time to time made to the common elements or to any unit with the prior consent in writing of the Board, shall be maintained in the office of the Corporation at all times, or at such other place as the Board shall from time to time determine by resolution, for the use of the Corporation in rebuilding or repairing any damage to the building, and for the use of any owner.

## **ARTICLE XIV INDEMNIFICATION**

1. Each owner shall indemnify and save harmless the Corporation from and against any loss, costs, (including legal costs, disbursements and applicable sales taxes



all calculated on a solicitor and client basis), damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by an act or omission or breach of the Act, the Declaration, the By-laws or Rules, of or by such owner, the owner's family or any member thereof, any tenant or other resident of the unit or any guests, invitees or licensees of such owner or resident to or with respect to the common elements and/or all units, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any policy or policies of insurance) and insured against by the Corporation but subject to Article XVIII of this By-law. Owners shall be jointly and severally responsible for any such losses, costs, damages, etc., caused by any tenant or other resident of their unit. All payments pursuant to this clause are deemed to be additional contributions toward the common expenses and recoverable in the same manner as set out in Article XI herein.

**ARTICLE XV**  
**RESERVE FUND**

1. The Corporation shall establish and maintain one or more reserve funds and shall collect from the owners, as part of their contribution towards common expenses, an amount that, calculated on the basis of expected repair and replacement costs and life expectancy of things comprising the common elements and the assets of the Corporation, are reasonably expected to provide sufficient funds for major repair and replacement of common elements and assets of the Corporation, but in no event shall contributions to the reserve fund or funds be less than the prescribed amount as set out in the Condominium Act.
2. No part of a reserve fund shall be used except for the purposes for which the fund was established.
3. The amount of the reserve fund shall constitute an asset of the Corporation and shall not be distributed to any owner except on termination of the Corporation.
4. Interest earned on monies held in a reserve fund shall itself form part of the reserve fund.
5. The cost of obtaining any class of reserve fund study prescribed by the Act may be paid from the reserve fund itself at the discretion of the Board.
6. Money in the reserve fund may be invested in the manner described in Article V, paragraph 2(e) of this By-law, but only after the Corporation has developed an Investment Plan based upon the anticipated cash requirements of the Corporation's reserve fund as set out in the most recent reserve fund study.

**ARTICLE XVI**  
**AUDITORS AND FINANCIAL STATEMENTS**

1. The owners shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.
2. The financial statement prepared by the auditor in accordance with the Act shall be approved by the Board and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the Directors duly authorized to sign, and the auditor's report prepared in accordance with the Act shall be attached to or accompany the financial statement.

3. The Corporation shall, at least fifteen (15) days or more before the date of the annual meeting of owners, send by prepaid mail or deliver to each owner and mortgagee at their latest address entered on the register of the Corporation a copy of the financial statement and a copy of the auditor's report.

**ARTICLE XVII**  
**GENERAL MATTERS AND ADMINISTRATION**

1. Rights of Entry:

- (a) The Corporation or any insurer of the property or any part thereof, their respective agents, or any other person authorized by the Board, shall be entitled to enter any unit at all reasonable times and upon giving reasonable notice to perform the objects and duties of the Corporation, and, without limiting the generality of the foregoing, for the purpose of making inspections, adjusting losses, making repairs, correcting any condition which violates the provisions of any insurance policy or policies, and remedying any condition which might result in damage to the property and/or is a violation of the Act or the Declaration, By-laws or Rules of the Corporation.
- (b) In case of an emergency, an agent of the Corporation may enter a unit at any time and without notice for the purpose of repairing the unit, common elements, or for the purpose of correcting any condition which might result in damage or loss to the property. The Corporation or anyone authorized by it may determine whether an emergency exists.
- (c) If an owner shall not be personally present to grant entry to their unit, the Corporation, or its agents, may enter upon such unit without rendering it, or them, liable to any claim or cause of action for damages by reason thereof provided that they exercise reasonable care.
- (d) The rights and authority hereby reserved to the Corporation, its agents, or any insurer or its agents, do not impose any responsibility of liability whatever for the care of supervision of any unit except as specifically provided in the Declaration or the By-laws.

2. Units Subject to Declaration, By-laws and Rules of the Corporation:

All present and future owners, tenants and residents of units, their families, guests, invitees or licensees, shall be subject to and shall comply with the provisions of the Act, the Declaration, By-laws and the Rules of the Corporation. The acceptance of a deed or transfer, or the entering into of a lease, or the entering into occupancy of any unit, shall constitute an agreement that the provisions of the Act, the Declaration, By-laws and the Rules as they may be amended from time to time, are accepted and ratified by such owner, tenant or resident, and all of such provisions shall be deemed and taken to be covenants running with the unit and shall bind any person having, at any time, any interest or estate in such unit as though such provisions were recited and stipulated in full in each and every such deed or transfer or lease or occupancy agreement.

**ARTICLE XVIII**  
**INSURANCE DEDUCTIBLES**

1. If any damage should occur to a unit or part of it and the damage was not caused by the Corporation or any agent or employee of it, and such damage was of a type that is insured against by the Corporation, the unit owners shall be responsible for reimbursing the Corporation for the lesser of the cost of repairing the damage and the applicable deductible limit of the Corporation's Insurance policy and in accordance with the Act, such amounts shall be added to the common expenses payable for the owner's unit. This provision shall apply regardless of how the damage occurred or who or what may have caused it.

2. If any damage should occur to the common elements or part of them and an owner, other occupant of the unit or a guest of an owner or an occupant was responsible for such damage and such damage was of a type that is insured against by the Corporation, the unit owner shall be responsible for reimbursing the Corporation for the lesser of the cost of repairing the damage and the applicable deductible limit of the Corporation's insurance policy in accordance with Article XIV of this By-law. This provision shall apply regardless of how the damage occurred or who or what may have caused it.

**ARTICLE XIX**  
**PROPERTY TAX ASSESSMENTS**

1. The Corporation may be authorized by a vote of owners representing a majority of all of the units in the Corporation at a meeting called for that purpose, to object to assessments made under the Assessment Act on behalf of the owners.
2. Prior to making an objection the Corporation shall give at least ten (10) days prior written notice to the owners of its intent to object and what the objections are provided the Corporation may give such shorter notice as the Board deems necessary in the event that an objection limitation period would be missed by reason of giving ten (10) days notice.
3. On written notice to the Board given before the hearing of a complaint under section 40 of the Assessment Act, an owner may withdraw a complaint that the Corporation has made on the owner's behalf.
4. All costs associated with making the objections, including without being limited to, the cost of any consultants, experts or others hired by the Corporation to assist or represent it in making the objections shall be paid for from the common expenses.
5. The Corporation shall not be liable to any owner for an alteration in the assessment of a unit or for any other matter relating to the complaint including without being limited to, the failure to make an objection within the required time period.

**ARTICLE XX**  
**MEDIATION/ARBITRATION PROCEDURE**

1. In accordance with Section 56(1)(o) of the Act, the procedures contained in this Article XX shall apply to:
  - (a) disagreements arising between the Corporation and an owner in respect to the Declaration, the By-laws and the Rules of the Corporation pursuant to Section 132(4) of the Act;
  - (b) a dispute by an owner as to the fair market value of the property or part of the common elements that has been sold by the Corporation, pursuant to Section 125 of the Act; and
  - (c) to those agreements listed in Section 132(2) and (3) of the Act subject to any specific contractual provisions contained in such agreements relating to the use of mediation or arbitration to resolve disputes. Should there be a conflict between such contractual provisions and the provisions contained in this Article XX, the contractual provisions shall take precedence.
2. Before requiring a disagreement to be submitted to mediation a person entitled to utilize the mediation process, (the "requesting party") shall notify, in writing,

the other party to the dispute ("the responding party") and shall disclose in such notification, in reasonably sufficient detail, the nature of the dispute and the requesting party's suggestions for resolving it. The responding party shall have five (5) days from receipt of such notification to respond, in writing, to the requesting party's concerns. If the requesting party is not satisfied with the response, the requesting party may either continue efforts to resolve the dispute or submit a notice of request for mediation in accordance with the provisions contained in this Article XX. Notwithstanding the foregoing, either of the requesting party and the responding party may disregard the requirement for pre-mediation notice or a response to it, if they have a genuine concern that to delay commencement of the mediation process will prejudice their position or that of others who may have some interest in the dispute, in some real and measurable fashion.

3. Any party to a dispute that is governed by this Article XX provision who wishes to commence the mediation process must send a notice of request to mediate to the other party(s) to the dispute. The notice need not be in any specific form but must:
  - (a) be typewritten or printed legibly;
  - (b) clearly identify the matter in dispute;
  - (c) set out, in reasonably sufficient detail, the reasons why the matter is being disputed and the disputing party's suggestions as to resolving the matter, (this condition may be satisfied by attaching a copy of the pre-mediation notice, if any);
  - (d) include the following statement:  
 "....., (name of party requesting mediation) hereby requires that the disagreement described in this notice be submitted to mediation in accordance with Section 132(4) of The Condominium Act, 1998".
  - (e) include with it three, (3) signed copies of an Agreement to Mediate in the Corporation's form as may be amended from time to time at the discretion of the Board copies of which shall be made available by the Corporation promptly upon request;
  - (f) the names of three (3) independent persons qualified to provide mediation services in accordance with this Article XX and their address and telephone numbers, any of which the requesting party agrees to accept as the mediator of the disagreement; and
  - (g) be dated and signed by the requesting party.
4. Any notices to be delivered pursuant to this Article XX shall be delivered in accordance with Article X of this By-law.
5. The limitation period for choosing a mediator established in the Act shall commence running as of the date a notice of request to mediate is delivered to the responding party.
6. Upon receipt of a notice of request to mediate the responding party shall have five (5) days to sign and return one copy of an Agreement to Mediate to the requesting party. If the responding party:
  - (a) fails to return the Agreement to Mediate within the required time;
  - (b) refuses to sign the Agreement to Mediate;
  - (c) refuses to submit the disagreement to mediation; or
  - (d) does nothing in response to the request to mediate.
 they shall be deemed to have accepted the appointment of any one of the persons listed in the notice of request to mediate to act as the mediator with respect to the disagreement as chosen by the requesting party and, in the event that mediation takes place, to be bound by the mandatory provisions to be included in the Agreement to Mediate as listed in paragraph 9, of this Article XX.
7. If the parties agree to mediate but cannot agree to a mediator within five (5) days of receipt by the responding party of the notice of request for mediation, or a mediator has been agreed upon but is unable or unwilling to act and the

parties cannot agree on a replacement, the mediator who was agreed upon shall select a new mediator or if no mediator was agreed upon then any of the parties may request one of the Arbitration and Mediation Institute of Ontario (the "AMIO") or the Canadian Condominium Institute ("the CCI") on a without personal liability basis, to recommend a mediator and the parties will be deemed to have agreed to accept that mediator for the mediation.

8. To be qualified to act as a mediator for a dispute governed by this Article XX, a person must belong to the AMIO and have a basic knowledge of condominium law and administration which may be evidenced by; their involvement with condominium (such as having worked in a profession directly related to the condominium industry or served as a Board member for a condominium); education, (such as having taken or taught one or more seminars/courses relating to condominium law and administration sponsored by the CCI, AMIO or other recognized educational organization); or experience, (such as having acted as a mediator for one or more condominium related disputes).
  
9. Any Agreement to Mediate utilized by the Corporation shall be reasonable, fair and drafted in a manner as to give equal treatment to all parties to it. The following are the mandatory statements or provisions that the Agreement to Mediate must always contain unless changed by By-law of the Corporation:
  - (a) an explanation of the mediator's role as being a neutral facilitator to assist the parties in reaching their own settlement;
  - (b) the mediator will not provide legal advice and that each party is advised to retain and consult with their own lawyer to be properly counseled about their legal rights, interest and obligations;
  - (c) that for the mediation to be successful open and honest communication is essential and accordingly, all written and oral communications, negotiations and settlements, including but not limited to, the pre-mediation notice, and the notice of request to mediate, that are made in the course of mediation will be treated as privileged settlement discussions and shall be confidential to the fullest extent provided by law unless the parties agree otherwise and in writing;
  - (d) that the parties shall not demand the production of any records, notes, work product or other documents relating to the mediation from the mediator or call the mediator or anyone else associated with the mediation as a witness in any legal or administrative proceeding concerning the parties;
  - (e) notwithstanding the foregoing, the parties agree that the Agreement to Mediate, the record of settlement produced by the mediator in respect of the mediation and any written agreement made between the parties as a result of the mediation may be used in any subsequent proceeding involving the parties that arises by reason of a breach of any such agreement or settlement by one of the parties;
  - (f) the parties or their representatives who actually participate in the mediation will have express authority to negotiate and settle the disagreement themselves;
  - (g) the parties will disclose and produce all relevant and pertinent information and documents that relate to the disagreement to be mediated to each other and to the mediator;
  - (h) when a settlement is reached between the parties the mediator will prepare a written record of the settlement which shall form part of the agreement or matter that was the subject of the mediation;
  - (i) that should a party wish to withdraw from the mediation after it has commenced the withdrawing party must discuss the withdrawal with the mediator before doing so;
  - (j) should the mediator determine that it is not possible to resolve the matter through mediation, with or without the agreement of the parties, he or she shall issue a notice to the parties stating the mediation has failed in a timely fashion and not more than five (5) days after the mediator has

- reached this decision and neither party shall be obligated to continue with the mediation unless all the parties agree in writing;
- (k) each party shall pay the fees and expenses relating to the mediation that the settlement agreement reached between them specifies if a settlement is obtained or that the mediator specifies in the notice stating that the mediation has failed;
  - (l) each party shall pay in advance such deposits as the mediator shall reasonably require towards the costs of the mediation and for the purposes of this clause, "reasonable costs" shall include one-half of the mediator's total estimated costs for the mediation;
  - (m) the parties will execute such other agreements or consents as the mediator may reasonably require with respect to the mediation;
  - (n) the mediation shall take place at such location as the mediator may choose provided that it is located within the City or Town that the Corporation is located within;
  - (o) the names, addresses and telephone numbers of the parties;
  - (p) an agreement that the parties jointly and severally agree to indemnify and save harmless the mediator for all liability, costs, claims and proceedings howsoever arising under the Agreement to Mediate or as a result of the conduct of the mediation and its consequences, provided that the mediator has carried out his or her duties honestly and in good faith;
  - (q) the agreement will be governed by the laws of the province of Ontario; and
  - (r) the agreement will ensure to the benefit of and be binding upon the Parties and the mediator, their heirs, executors, administrators, successors and assigns.
10. In accordance with Section 132(1), if the mediator determines that the mediation will not take place or has failed, the matter under dispute shall be submitted to arbitration in accordance with the Arbitrations Act 1991.
11. Nothing in this Article XX shall preclude the Corporation, an owner or other party from exercising any of the rights or remedies afforded to them under the Act or at law.

**ARTICLE XXI**  
**NON-RESIDENTS**

1. An owner who has leased, rented or otherwise allowed someone to occupy his or her unit and as a result does not reside on a regular basis in the unit is prohibited from using any of the common elements without the prior consent of the Board of Directors except;
- (a) as a guest of another unit owner;
  - (b) at the invitation of the Board;
  - (c) to the extent necessary to inspect the owner's unit and the exclusive use areas allocated to and for carrying out such maintenance, repairs or replacement of the unit or common elements that the owners may be responsible for; and
  - (d) is reasonably necessary to collect rents, show the unit to prospective buyers/tenants and to otherwise carry out his or her responsibilities as an absentee owner.
2. An owner who rents or leases his or her unit must comply with Section 83 of the Act which, among other matters, requires the owner to:
- (a) notify the Corporation that the unit has been leased, within thirty (30) days of entering into lease or renewal;
  - (b) provide the Corporation with the names of the lessees (tenants);
  - (c) provide the Corporation with the owner's address;

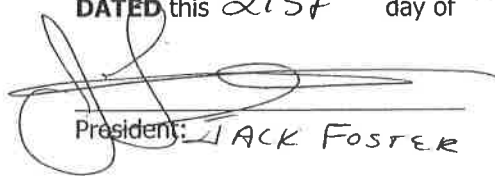
- (d) provide to the Corporation a copy of a Summary of Lease or Renewal in the form prescribed by the regulations to the Act (Form 5, Ontario Regulation 49/01);
- (e) provide the lessee with a copy of the Declaration, By-laws and Rules of the Corporation; and
- (f) notify the Corporation immediately upon the lease for the unit being terminated and not renewed.

**ARTICLE XXII  
MISCELLANEOUS**

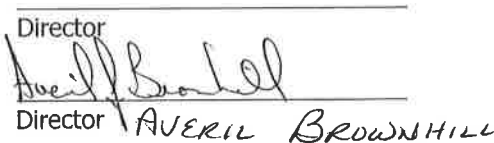
1. Invalidity:  
The invalidity of any part of this By-law shall not impair or affect in any manner the validity and enforceability or effect of the balance thereof.
2. Gender:  
The use of the masculine or feminine gender in this By-law shall be deemed to include masculine or feminine respectively and neuter genders and the use of the singular shall be deemed to include plural wherever the context so requires.
3. Waiver:  
No restriction, condition, obligation or provision contained in this By-law shall be deemed to have abrogated or waived by reason of any failure to enforce the same irrespective of the number violations or breaches thereof which may occur.
4. Headings:  
The headings in the body of this By-law form no part thereof but shall be deemed to be inserted for convenience of reference only.
5. Alterations:  
This By-law, or any part thereof, may be varied, altered or repealed by a By-law passed in accordance with the provisions of the Act and the Declaration.

The foregoing By-law is hereby passed by the Directors of the Corporation pursuant to The Condominium Act 1998 as evidenced by the respective signatures hereto of a majority of all of the Directors.

DATED this 21st day of June, 2005.

  
\_\_\_\_\_  
President: JACK FOSTER

  
\_\_\_\_\_  
Secretary DAVID PILKINGTON

Director  
  
\_\_\_\_\_  
Director AVERIL BROWNHILL

  
\_\_\_\_\_  
Director RAY CREPEAU

(SEAL)

