

**BYLAWS OF  
THE ESTATES HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I  
THE ASSOCIATION**

SECTION 1.1 **Name.** The name of this Association shall be "The Estates Homeowners' Association, Inc.," (the "Association"), an Alabama non-profit corporation, which has been formed pursuant to Articles of Incorporation of the Association (the "Articles of Incorporation") which have been filed with the Probate Office of Lee County, Alabama. The provisions of these Bylaws (the "Bylaws") are expressly subject to the terms and provisions of The Estates Declaration of Covenants, Conditions, and Restrictions dated July 17, 2006 which has been recorded in Misc. Book 1279, Page 90, in the Probate Office of Lee County, Alabama (which, together with all subsequent amendments thereto, is hereinafter referred to as the "Declaration"). Capitalized terms not otherwise defined herein shall have the same meanings given to them in the Declaration.

SECTION 1.2 **Principal Office.** The principal office of the Association in the State of Alabama shall be located at 908 Broad Street, Phenix City, Alabama. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate from time to time.

SECTION 1.3 **Registered Office.** The registered office of the Association required by the Alabama Nonprofit Corporation Act to be maintained in the State of Alabama shall be at 908 Broad Street, Phenix City, Alabama 36868.

**ARTICLE II  
MEMBERS**

SECTION 2.1 **Membership.**

SECTION 2.1.1 Each person who is the owner of any Lot or Dwelling in the Subdivision shall be a member of the Association (hereinafter referred to as "Member"). Developer shall be deemed a Member of the Association and shall have one (1) vote for each Lot or Dwelling owned by Developer. Membership in the Association shall be appurtenant to, and may not be separated from ownership of a Lot or Dwelling.

SECTION 2.1.2 No Owner, whether one or more persons, shall be entitled to more than one vote per Lot or Dwelling owned. If a Lot or Dwelling is owned by more than one person and if only one of those persons is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to such Lot or Dwelling; provided, however, that if more than one person is present, the vote appertaining thereto shall be cast only in accordance with

their unanimous agreement, and, if no unanimous agreement is reached, the vote appurtenant to such Lot or Dwelling shall be suspended.

SECTION 2.1.3 Notwithstanding anything provided herein or in the Articles of Incorporation to the contrary, for so long as Developer owns any Lot or Dwelling in the Subdivision, other than a Dwelling used by Developer for a personal residence, Developer shall have the sole and exclusive right to (i) elect the Board of Directors of the Association; (ii) appoint the Officers of the Association and the members of the ACC as defined in the Declaration; (iii) remove and replace any members of the Board of Directors of the Association, the Officers of the Association, and the members of the ACC; (iv) amend these Bylaws and the Articles of Incorporation; (v) amend the Declaration (subject to the limitations set forth in Section 10.2 of the Declaration); and (vi) take all other action on behalf of the Association and vote on all other matters required to be voted on or approved by the Members of the Association.

SECTION 2.1.4 The voting rights of the Members of the Association shall be limited to (i) approving increases in the annual assessments; and (ii) approving amendments to the Declaration if such approval is required pursuant thereto. The voting rights of any Member may be limited and suspended in accordance with the provisions of the Declaration.

## SECTION 2.2 Annual Meeting.

SECTION 2.2.1 The annual meeting of the Members of the Association shall be held on such date and at time as may be fixed by the Board of Directors.

SECTION 2.2.2 At the annual meeting, the Members of the Association shall, subject to the terms of Section 2.1 and 3.3 of these Bylaws, elect the Board of Directors of the Association, review the annual budget for the Association, and otherwise transact such other business as may come before such meeting.

SECTION 2.2.3 The order at the annual meeting of the Association shall be:

- (a) Calling the roll, certifying of proxies and establishing of quorum.
- (b) Proof of notice of the meeting or certificate as to waivers.
- (c) Reports of the Officers and Directors of the Association.
- (d) Election of Board of Directors of the Association.
- (e) Old business.
- (f) New business.
- (g) Adjournment.

SECTION 2.3 **Special Meetings.** Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or the Board of Directors of the Association and shall be called by the President or Secretary of the

Association upon the petition of at least one-half ( $\frac{1}{2}$ ) or more of the total votes in the Association.

**SECTION 2.4 Place of Meeting.** The Board of Directors may designate any place, either within or without the State of Alabama, as the place of meeting for any annual or special meeting. In the absence of any designation, all meetings shall be held at the principal office of the Association in the State of Alabama.

**SECTION 2.5 Notice of Meeting.** Written or printed notice stating the place, day, and hour of the meeting and, in case of a special meeting, or of a meeting which is required by statute to be held for any special purpose, or of any annual meeting at which special action is to be taken, the purpose or purposes for which the meeting is called, or the special action which is proposed to be taken, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the Board of Directors, the President, the Secretary, or the officer or persons calling the meeting, to each Member of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the books of the Association, with postage there on prepaid. If given personally, such notice shall be deemed to have been delivered to the Member upon delivery of the same to the Lot or Dwelling of such Member.

**SECTION 2.6 Quorum.** The presence in person or by proxy of Owners entitled to cast over fifty percent (50%) of all the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, but the required quorum at the subsequent meeting shall be the presence in person or by proxy of owners entitled to cast at least one-third ( $\frac{1}{3}$ ) of the total votes of the Association. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to have less than a quorum.

**SECTION 2.7 Proxies.** At all meetings of the Members of the Association, a Member may vote either in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

**SECTION 2.8 Voting Members.** Subject to the provisions of Sections 2.1 and 3.3 of these Bylaws, each Member of the Association shall be entitled to one (1) vote for each lot or dwelling owned by such Member. Developer shall be to one (1) vote for each lot or dwelling in the Subdivision owned by Developer. No fractional voting shall be permitted. When more than one person is the owner of a lot or dwelling, the provisions in Section 2.1 of these Bylaws shall be applicable in the exercise of such voting rights. For purposes of these Bylaws, the Articles of Incorporation, and the Declaration, the vote of a "majority" of the Members of the Association shall mean the vote of more than fifty percent (50%) of the total number of votes represented at a

meeting, whether in person or by proxy. Unless a greater proportion is specified in these Bylaws, the Articles of Incorporation, or the Declaration and, subject to the terms and provisions of Sections 2.1 and 3.3 of these Bylaws, any matter which requires the vote of, approval, disapproval, or consent of the Members of the Association shall be deemed to have been given if a majority of the Members of the Association represented at a meeting, either in person or by proxy, affirmatively vote for, approve, disapprove, or consent to the same.

**SECTION 2.9 Informal Action by Members.** Any action required or permitted to be taken at a meeting of the Members of the Association may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all Members entitled to vote with respect to the subject matter thereof.

### **ARTICLE III** **BOARD OF DIRECTORS**

**SECTION 3.1 General Powers.** The business and affairs of the Association shall be managed by or under the direction of its Board of Directors, (hereinafter referred to as the "Board").

**SECTION 3.2 Number, Tenure, and Qualifications.** The number of Directors of the Association shall be not less than three (3) nor more than five (5). Each Director shall hold office until his successor shall have been elected and qualified. Directors need not be residents of the State of Alabama or Members of the Association.

#### **SECTION 3.3 Election, Removal, and Replacement of Directors.**

**SECTION 3.3.1** For so long as Developer is the owner of any lot or dwelling within the Subdivision, other than a dwelling used by Developer for a personal residence, (i) all of the members of the Board shall be elected by Developer; and (ii) Developer shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board, without any consent or approval of the members.

**SECTION 3.3.2** At such time as Developer no longer owns any lot or dwelling within the Subdivision, the Members of the Association shall elect, by majority vote of the Members of the Association, new members of the Board. Thereafter, the Members of the Association, by affirmative vote of a majority of the members, shall (i) elect the members of the Board at the annual meeting of members of the Association; and (ii) have the right to remove, either with or without cause, any Director.

**SECTION 3.4 Regular Meetings.** A regular meeting of the Board shall be held, without further notice other than this Bylaw, immediately after, and at the same place as, the annual meeting of the Members of the Association; provided, however, that any such regular meeting may be held at any other time or place which shall be specified in a notice given as

hereinafter provided for special meetings, or in a consent and waiver of notice thereof, signed by all Directors. The Board may provide, by resolution, the time and place, either within or without the State of Alabama, for the holding of additional regular meetings without other notice than such resolution.

**SECTION 3.5 Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the Chairman, the President or any two (2) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Alabama, as the place for holding any special meeting of the Board called by them.

**SECTION 3.6 Notice.** Notice of any special meeting shall be given either (a) by written notice at least 48 hours in advance of such meeting, delivered in person or by leaving such notice at the place of business or residence of each Director, or by depositing such notice in the United States mail, postage prepaid, addressed to each Director at his address as it appears on the records of the Association; or (b) verbally in person or by telephone at least 24 hours in advance of such meeting by communication with the Director in person or by telephone. Any Director may waive notice of any meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**SECTION 3.7 Quorum.** A majority of the number of Directors fixed by Section 3.2 of these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such a majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. If a quorum is present when the meeting is convened, the Directors present may continue to do business, taking action by a vote of majority of quorum as fixed above, until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum as fixed above, or the refusal of any Director present to vote.

**SECTION 3.8 Manner of Acting.** The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by statute, the Articles of Incorporation, or these Bylaws.

**SECTION 3.9 Action without a Meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if consent in writing, setting forth the action to be so taken, shall be signed by all of the Directors.

**SECTION 3.10 Vacancies.** For so long as Developer is the owner of any lot or dwelling in the Subdivision, other than a dwelling used by Developer as a personal residence, any vacancy occurring in the Board shall be filled by Developer as provided in Section 3.3.1 above. At such time as Developer no longer owns any lot or dwelling in the Subdivision, any vacancy occurring in the Board, other than a vacancy occurring by reason of a Director's removal pursuant to Section 3.3.2 of these Bylaws, may be filled by the affirmative vote of a majority of

the remaining Directors. In the event that there is no remaining Director, then the vacancy or vacancies occurring in the Board shall be filled by the affirmative vote of a majority of the Members of the Association. A Director elected or appointed to fill a vacancy shall be elected to serve for the unexpired term of his predecessor in office.

**SECTION 3.11 Compensation.** By resolution of the Board, each Director may be paid his expenses, if any, of attendance at each meeting of the Board. No such payment shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

**SECTION 3.12 Committees.**

**SECTION 3.12.1** The Board, by resolution adopted by a majority of the Board, may designate from among its members one or more committees, each committee to consist of one or more resolution, shall have and may during intervals between the meetings of the Board, exercise all the authority of the Board, except that no such committee shall have the authority of the Board in reference to issuing capital stock, amending the Articles of Incorporation, adopting a plan of merger or consolidation, filling vacancies in the Board, or amending the Bylaws of the Association. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed upon it or him by law.

**SECTION 3.12.2** Notwithstanding anything provided to the contrary in Section 3.12.1 above, at such time as Developer no longer owns any lot or dwelling in the Subdivision, or upon Developer's written notice to the Association that it no longer desires to exercise the rights to appoint and remove members of the Committee as provided in Section 2.2.1 of the Declaration, then the Board shall appoint all members of the ACC in accordance with the provisions of Article II of the Declaration.

**SECTION 3.13 Resignations.** Any Director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

**SECTION 3.14 Participating in Meetings by Conference Telephone.** Members of the Board or any committee designated thereby may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at such meeting.

**ARTICLE IV**  
**OFFICERS**

**SECTION 4.1 Principal Officers.** The Principal Officers of the Association shall be elected by the Board and shall include a President, a Vice President, a Secretary, and a Treasurer; and may, at the discretion of the Board, also include a Chairman of the Board and such other officers as may be designated from time to time. Any number of offices may be held by the same person, except for the offices of President and Secretary. None of the Principal Officers need be Directors of the Association.

**SECTION 4.2 Election of Principal Officers; Term of Office.** The Principal Officers of the Association shall be elected annually by the Board at the first meeting of the Board held after each annual meeting of the members. If the election of Principal Officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each Principal Officer shall hold office until his successor shall have been duly elected and qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. If the Board shall fail to fill any principal office at an annual meeting, or if any vacancy in any principal office shall occur, or if any principal office shall be newly created, such principal office may be filled at regular or special meeting of the Board.

**SECTION 4.3 Subordinate Officers, Agents, and Employees.** In addition to the Principal Officers, the Association may have such other subordinate officers, agents and employees as the Board may deem advisable; each of whom shall hold office for such period and have such authority and perform such duties as the Board, the Chairman of the Board, the President, or any officer designated by the Board, may from time to time determine. The Board at any time may appoint and remove, or may delegate to any Principal Officer the power to appoint and to remove, any subordinate officer, agent, or employee of the Association.

**SECTION 4.4 Delegation of Duties of Officers.** The Board may delegate the duties and powers of any Officer of the Association to any other Officer or to any Director for a specified period of time for any reason that the Board may deem sufficient.

**SECTION 4.5 Removal of Officers or Agents.** Any Officer or agent of the Association may be removed by the Board at any time, either with or without cause, and the Board may appoint a successor to such removed Officer and agent. Election or appointment of any Officer shall not itself create contract rights.

**SECTION 4.6 Resignations.** Any Officer may resign at any time by giving written notice of resignation to the Board, the Chairman of the Board, the President, or the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of a resignation shall not be necessary to make the resignation effective.

**SECTION 4.7 Vacancies.** A vacancy in any office, the holder of which is elected or appointed by the Board, because of death, resignation, removal, disqualification, or otherwise,

may be filled by the Board for the unexpired portion of the term of such office. A vacancy in any other office for any reason shall be filled by the Board, or any committee, or Officer to whom authority for the appointment, removal, or filling of vacancies may have been delegated by these Bylaws or by resolution of the Board.

**SECTION 4.8 Chairman of the Board.** The Chairman of the Board, who must be a member of the Board, shall preside at all meetings of the Members of the Association and of the Board at which he is present. The Chairman of the Board shall have other powers and perform such other duties as may be assigned to him from time to time by the Board.

**SECTION 4.9 President.** The President shall, in the absence of the Chairman of the Board, preside at all meetings of the Association and of the Board at which he is present. The President shall be the chief executive officer of the Association and, subject to the control of the Board, shall have general supervision over the business and affairs of the Association. The President shall have all powers and duties usually incident to the office of the President, except as specifically limited by resolution of the Board. The President shall have such other powers and perform such other duties as may be assigned to him from time to time by the Board.

**SECTION 4.10 Vice President.** In the absence or disability of the President or if the office of President is vacant, the Vice President, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or confine such powers and duties or to assign them to others. Any Vice President may have such additional designation in his title as the Board may determine. Each Vice President shall generally assist the President in such manner as the President shall direct. Each Vice President shall have such other powers and perform such other duties as may be assigned to him from time to time by the Board or the President.

**SECTION 4.11 Secretary.** The Secretary shall act as secretary of all meetings of the Members of the Association and of the Board at which he is present, shall record all the proceedings of all such meetings in a minute book to be kept for that purpose, shall have supervision over the giving and service of the notices of the Association, and shall have supervision over the care and custody of the records and seal of the Association. The Secretary shall be empowered to affix the corporate seal to documents, the execution of which on behalf of the Association under its seal is duly authorized, and when so affixed may attest the same. The Secretary shall have all powers and duties usually incident to the office of Secretary, except as specifically limited by a resolution of the Board. The Secretary shall have such other powers and perform such other duties as may be assigned to him from time to time by the Board or the President.

**SECTION 4.12 Treasurer.** The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of the Association and shall cause the funds of the Association to be deposited in the name of the Association in such banks or other depositories as the Board may designate. The Treasurer shall have all powers and duties usually incident to the office of the Treasurer except as specifically limited by a resolution of the



Board. The Treasurer shall have such other powers and perform such other duties as may be assigned to him from time to time by the Board or the President.

SECTION 4.13 **Salaries.** The Officers of the Association shall not be entitled to any salaries or other compensation except for expenses incurred on behalf of the Association which shall be reimbursed.

**ARTICLE V**  
**FISCAL MATTERS AND BOOKS AND RECORDS**

SECTION 5.1 **Fidelity Bonds.** The Board may require that any contractor or employee of the Association handling or responsible for Association funds furnish an adequate fidelity bond. The premium for any such bond shall be paid by the Association and shall constitute a common expense.

SECTION 5.2 **Books and Records Kept by Association.** The Association shall keep detailed, complete, and accurate financial records, including itemized records of all receipts and disbursements, shall keep detailed minutes of the proceeds of all meetings of the members and of the Board and committees having any of the authority of the Board, and shall keep such other books and records as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association shall keep at the office of the Association a record giving the names and addresses of the Directors and all Members of the Association, which shall be furnished by each owner pursuant to Section 5.10 of these Bylaws.

SECTION 5.3 **Inspections.** The books, records, and papers of the Association shall at all times during reasonable business hours be subject to inspection by any Member or his agent or attorney for any proper purpose. True and correct copies of the Articles of Incorporation, these Bylaws, the Declaration, and all rules and regulations of the Association with all amendments thereto, shall be maintained at the principal registered offices of the Association and copies thereof shall be furnished to any Member on request on payment of a reasonable charge therefor.

SECTION 5.4 **Contracts.** The Board may authorize any Officer or Officers, or agent or agents of the Association, in addition to the Officers so authorized by the Declaration and these Bylaws, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION 5.5 **Checks, Drafts, etc.** All checks, drafts, or 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, or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer of the Association.

SECTION 5.6 **Deposits.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board may select.

SECTION 5.7 **Gifts.** The Board may accept, on behalf of the Association, any gift, contribution, bequest, or devise for the general purposes, or for any special purpose, of the Association.

SECTION 5.8 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.

SECTION 5.9 **Annual Statements.** No later than four (4) months after the close of each fiscal year, the Board shall prepare or cause to be prepared a balance sheet showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement showing the results of its operations during the fiscal year. Such statements may, in the discretion of the Board, be audited statements. Upon receipt of written request, the Treasurer promptly shall mail to any Member copies of the most recent such balance sheet and income and expense statement on payment of a reasonable charge therefor.

SECTION 5.10 **Notices.** Each Member shall be obligated to furnish to the Secretary of the Association, the address, if other than the lot or dwelling of such Member, to which any notice or demand to the owner under the Declaration or these Bylaws is to be given, and if no address other than such lot or dwelling shall have been designated, all such notices and demands shall be mailed or delivered to such lot or dwelling.

SECTION 5.11 **Payment of Taxes on Common Areas and Insurance Premiums.** The Board shall, to the extent funds are available, cause payment to be made, in a timely manner, of all taxes assessed either against the common areas or Association property as well as all insurance premiums related thereto.

## ARTICLE VI INSURANCE

SECTION 6.1 **Types of Coverage.** The Association shall maintain in effect at all times as a common expense the types of insurance coverage required by the Declaration, any workmen's compensation, or other insurance required by law, and such other insurance as the Board may from time to time deem appropriate. The Board shall review the amount and terms of such insurance annually.

SECTION 6.2 **Damage or Destruction to Common Areas.** Immediately after the damage or destruction by fire or other casualty to all or any part of the common areas covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. The Association shall promptly commence and complete the repair and restoration of any portions of the common areas damaged by any such fire or casualty. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost

thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such a purpose, the Board may levy a special assessment against all members, without the necessity of a vote or the consent of approval of any of the members, as provided in the Declaration, to provide funds to pay such excess costs of repair or reconstruction. Such a special assessment shall be levied against all the members equally in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such special assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction as is established by the Board. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined by the Board that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the common areas damaged or destroyed by fire or other casualty shall be cleared and the common areas left in a clean, orderly, safe, and slightly condition.

**SECTION 6.3 Condemnation of Common Areas.** Whenever all or any part of the common areas of the Subdivision shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board, the award made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

(a) If the taking or sale in lieu thereof involves a portion of the common areas on which improvements have been constructed, then the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the common areas which are available therefor, in accordance with the plans approved by the Board and the Committee (as defined in the Declaration). If the award is not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board may levy a special assessment against all Members, as provided in the Declaration, to provide funds to pay such excess costs of repair or reconstruction. Such a special assessment shall be levied against all Members equally in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If the Board determine that such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association to be used as provided in the Declaration.

(b) If the taking or sale in lieu thereof does not involve any improvements to the common areas, or if there are net funds remaining after any such restoration or replacement of such improvements is completed, then such award or net funds shall be retained by and for the benefit of the Association.

**ARTICLE VII**  
**INDEMNIFICATION**

**SECTION 7.1 Indemnification.** The Association shall to the fullest extent permitted by applicable law, indemnify any person (and their heirs, executors, and administrators of such person), who, 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, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, was or is a party or is threatened to be made a party to:

(a) any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative, including appeals (other than an action by or in the right of the Association), against expenses (including attorney's fees), judgements, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with any such claim, action, suit, or proceeding; or

(b) any threatened, pending, or completed claim, action, suit, or proceeding by or in the right of the Association to procure a judgement in its favor, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action, suit or proceeding. Any indemnification by the Association pursuant hereto shall be made only in the manner and to the extent authorized by the Articles of Incorporation and applicable law and any such indemnification shall not be deemed exclusive of any other rights to which those seeking indemnification may otherwise be entitled.

**SECTION 7.2 Indemnification Insurance.** The Association shall have the power and authority to purchase and maintain insurance on the behalf of any person who 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, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under applicable law.

**ARTICLE VIII**  
**GENERAL PROVISIONS**

**SECTION 8.1 Waiver of Notice.** Whenever any notice is required to be given under any provision of law, the Articles of Incorporation, or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members, the Board, or the members of a committee established by the Directors need be specified in any written waiver of notice unless otherwise required by these Bylaws. Attendance of a Director at a meeting of the Board shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**SECTION 8.2 Incorporation by Reference.** All of the terms, provisions, definitions, covenants, and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between these terms, provisions, definitions, covenants, and conditions set forth herein in these Bylaws and in the Declaration, then the provisions of the Declaration shall at all times control.

**SECTION 8.3 Power of Directors to Amend.** The Board shall have the right, power, and authority to alter, amend or repeal the Bylaws of the Association or adopt new Bylaws for the Association at any regular or special meeting of the Board. Furthermore, at such time as Developer no longer owns any lot or dwelling in the Subdivision, other than a dwelling used by Developer for a personal residence, the Members of the Association, by the affirmative vote of at least two-thirds (2/3) of the total votes in the Association, may alter, amend, or repeal the Bylaws of the Association or adopt new Bylaws for the Association at any annual meeting or at a special meeting called for such purpose.

**SECTION 8.4 Seal.** The Board may, but shall not be obligated to, provide a corporate seal which shall be circular in form and have inscribed thereon the name of the Association, the state of incorporation, and such other words as the Board may prescribe; provided, however, that the use of the seal of the Association on any contract or agreement shall not be required to evidence the validity, authenticity, or approval of such contract or agreement.

**SECTION 8.5 Pronouns and Plurals.** All personal pronouns used in these Bylaws, whether used in the masculine, feminine, or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

The foregoing Bylaws were adopted by the unanimous consent of the Board of Directors of The Estates Homeowners' Association, Inc.