

Accepted 13 June 2006

**First Ammendment of  
BY-LAWS OF LAKE COUNTRY VILLAGE HOMEOWNERS  
ASSOCIATION, INC**

**ARTICLE I - NAME AND LOCATION**

The name of the corporation is Lake Country Village Homeowners Association, Inc. (hereinafter referred to as the "Association"). The mailing address of the Association shall be 10 Maine Road, Plattsburgh, Clinton County, New York 12903, but meetings of Members and Directors may be held at such other places within the State of New York as may be designated by the Board.

**ARTICLE II - DEFINITIONS**

Section 1. "Association" means Lake Country Village Homeowners Association, Inc. and its successors and assigns.

Section 2. "Board" means the Board of Directors of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the Common use and enjoyment of the Owners.

Section 4. "Declaration" means the Declaration of Covenants, Conditions, Easements and Restrictions applicable to the Property as recorded in the office of the Clerk of the County of Clinton, Government Center, Margaret Street, Plattsburgh, NY 12901.

Section 5. "Director" means a member of the Board of Directors of the Association.

Section 6. "Lot" means any plot of land shown upon any recorded subdivision map or resubdivision map of the Property (as defined below).

Section 7. "Member" mean those persons who become members of the Association as provided in the Declaration.

Section 8. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Property including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Property" means that certain interest in real property as described in the Declaration and such additions thereto as may thereafter be brought within the jurisdiction of the Association and declared as such.

**ARTICLE III - MEMBERSHIP AND VOTING**

Ownership of each Lot constitutes a single membership. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one membership.

**ARTICLE IV - MEETINGS OF MEMBERS**

Section 1. Annual Meeting. An annual meeting of all the Members shall be held each year on the second Tuesday of May at the office of the Association or at such other place as specified in the notice of meeting.

Section 2. Special Meetings. Special Meetings of the Members may be called at any time by the President of the Association or by the Board, or upon written request of fifty

percent (50%) of the Members.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days before such meeting to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Waiver of Notice. Notice of meeting need not be given to any Member who submits a signed waiver of notice thereof whether before, during or after a meeting, nor to any Member who attends the meeting without protesting prior to the conclusion thereof the lack of notice to him.

Section 5. Quorum. The presence at the meeting, in person or by proxy, of Members entitled to cast at least forty percent (40%) of the total number of votes entitled to be cast shall constitute a quorum for any action except as otherwise provided in the Declaration of these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 6. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 7. Required Vote. Directors shall be elected by a plurality of the votes cast at a meeting of Members by the Members entitled to vote in the election. Any other corporate action to be taken by vote of the Members shall, except as otherwise required by law or the Certificate of Incorporation of the Association, be authorized by a majority of the votes cast at a meeting of Members by the Members entitled to vote thereon.

Section 8. Action Without Meeting. Whenever Members are required or permitted to take any action by vote, such action may be taken without a meeting by written consent setting forth the action so taken and signed by all of the Members entitled to vote thereon.

## **ARTICLE V - BOARD OF DIRECTORS SELECTION TERM OF OFFICE**

Section 1. Number. The affairs of the Association shall be managed by a Board of not less than 5 (five) or more than 9 (nine) Directors, all of whom shall be Members of the Association. The Directors of the Association named in the Certificate of Incorporation shall serve until their successors are elected.

Section 2. Term. Directors serve for two-year terms and are elected in alternating

years. Following the initial election for the Board, all Directors shall serve a staggered two-year term.

Section 3. Meetings. Regular meetings of the Board shall be held at such times as the Directors may from time to time determine. Special meetings of the Board shall be held at any time, upon call from the President of the Association or of any two of the Directors.

Section 4. Place of Meetings. Regular and special meetings of the Board shall be held at the principal office of the Association, or at such other place, as may from time to time be determined by the Board or the person or persons authorized to call the meeting.

Section 5. Notice of Meetings. No notice need be given of a regular meeting of the Board. Notice of the place, day and hour of every special meeting shall be given to each Director by delivering the same to him personally or sending the same to him by telegraph or leaving the same at his residence or usual place of business, at least one (1) day before the meeting, or shall be mailed to each Director, postage prepaid and addressed to him at his last known address according to the records of the Association, at least three (3) days before the meeting. No notice of any adjourned meeting of the Board need be given other than by announcement at such meeting.

Section 6. Waiver of Notice. Notice of a meeting need not be given to any Director who submits a signed written waiver thereof whether before, during or after the meeting nor to any Director who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him.

Section 7. Quorum. Two-thirds (2/3) of the entire Board shall be necessary to constitute a quorum for the transaction of business at each meeting of the Board. However, if at any meeting there be less than a quorum present, a majority of those present may adjourn the meeting from time to time without notice other than by announcement at the meeting, until a quorum shall attend.

Section 8. Action Without a Meeting. Any action required or permitted to be taken by the Board or any committee thereof at a duly held meeting may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. Such resolution and the written consents thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or the committee.

Section 9. Personal Attendance by Conference Communication Equipment. Any one or more members of the Board or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

Section 10. Compensation. Directors as such shall not receive any compensation for their services.

**ARTICLE VI - POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board, on behalf of the Association, shall have the permission to:

- (a) adopt and publish rules and regulations governing the use and maintenance of the Common Area, the personal conduct of the Members and their tenants, and invitees thereon, and to establish penalties for the infraction thereof;
- (b) suspend the right to the use of the Common Area except for ingress and egress over the Member's Lot, during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after a notice and hearing for a period not to exceed sixty (60) days for an infraction of published rules and regulation;
- (c) exercise all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Certificate of Incorporation or the Association or the Declaration;
- (d) declare the office of a Director to be vacant in the event such Director shall be absent from three (3) consecutive regular meetings of the Board;
- (e) procure and maintain adequate liability and hazard insurance on the Property. (The Board shall, on an annual basis, review the amount of insurance coverage in order to assure that the Association and the Owners are fully protected.);
- (f) acquire, encumber and dispose of property as provided for in the Declaration;
- (g) employ a manager, an independent contractor and such other employees as it deems necessary and to prescribe their duties;
- (h) establish a capital reserve fund for repair and replacement of those deteriorating assets for which the Association is responsible; and
- (i) approve the annual budget as prepared by the Treasurer.

Section 2. Duties. It shall be the duty of the Board to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- (b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to: (i) establish the amount and starting day of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; (ii) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and (iii) foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same;
- (d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A

reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) procure and maintain adequate liability and hazard insurance on property where the Association has a legal interest;
- (f) cause all officers, agents or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the common area to be maintained; and
- (h) cause a financial statement for the Association to be prepared and certified by the Association's independent public accountant following the end of each fiscal year.

## **ARTICLE VII - OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following the annual meeting of the members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until such officer's successor has been elected or appointed and qualifies unless he or she shall sooner resign, be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect by majority vote such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any late time specified therein, and unless otherwise specified therein. The acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7. Duties. The duties of the officers are as follows:

- (a) President. The President shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out, and shall sign all leases, mortgages, deeds and other written contractual instruments.
- (b) Vice President. The Vice President shall act in the place and stead of the

President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

- (c) Secretary . The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.
- (d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; shall keep proper books of accounting; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its annual meeting, and have delivered a copy of each to the Members.

#### **ARTICLE VIII - COMMITTEES**

The Board may also appoint a Election Committee, Building Committee, Finance Committee, a Landscape Committee and other such committees the Board deems appropriate of no less than three (3) nor more than five (5) Members (one of which should be a Director) and may grant authority to them to approve, approve with conditions, or disapprove any application received, or to make recommendations to the Board, as provided in the Declaration. In addition, the Board shall appoint such other committees as deemed appropriate in carrying out its purposes.

**ARTICLE IX - BOOKS AND RECORDS** The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Certificate of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable costs.

**ARTICLE X - ASSESSMENTS** As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from such date at the legal rate of interest, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and the interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. In addition, the Association has the right to levy a late charge on delinquent accounts five (5) days after the assessment is due.

**ARTICLE XI - CORPORATE SEAL** The Association shall have a seal in circular form having within its circumference the words: Lake Country Village Homeowners

Association, Inc.

**ARTICLE XII - TENANTS** Any lease of a building within the subdivision shall provide for full compliance by the tenant with the Declaration, these By-Laws, and the rules and regulations of the Association. Should a tenant, be in violation thereof at any time, the Association may send the Owner of the building which said tenant occupies written notice of such violation by certified or registered mail, return receipt requested, at his or her address as set forth in the books and records of the Association. If the violation is not cured or eviction proceedings commenced against the tenant by the Owner at the Owner's expense within ten (10) days after the Owner has received notice of such violation, the Association may pursue any remedies which it may have.

**ARTICLE XIII - INDEMNIFICATION**

Section 1. Each person who was or is made a party to or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (herein after a "Proceeding"), by reason of the fact that he or his testator or intestate (a) is or was a Director or officer of the Association or (b) is or was a Director or officer of the Association who serves or served, in any capacity, any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise at the request of the Association (herein after an "indemnitee"), shall be indemnified and held harmless by the Association against all expense, liability and loss, including ERISA excise taxes or penalties, judgments, fines, penalties, amounts paid in settlement (provided the Board of Directors shall have given its prior consent to such settlement, which consent shall not be unreasonably withheld by it) and reasonable expenses, including attorneys' fees, suffered or incurred by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a Director or officer and shall inure to the benefit of the indemnitee's heirs and fiduciaries. No indemnification may be made to or on behalf of any Director or officer if his acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or otherwise disposed of, or he personally gained in fact a financial profit or other advantage to which he was not legally entitled. Notwithstanding the foregoing, except as contemplated by Section 3 of this Article, the Association shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Association.

Section 2. All expenses reasonably incurred by an indemnitee in connection with a threatened or actual proceeding with respect to which such indemnitee is or may be entitled to indemnification under this Article shall be advanced to him or promptly reimbursed by the Association in advance of the final disposition of such proceeding, upon receipt of a notification by him/her or on his/her behalf to repay the amount of such advances, if any, as to which he/she is ultimately found not to be entitled to indemnification or, where indemnification is granted, to the extent such advances exceed the indemnification to which he/she is entitled. Such person shall cooperate in good faith with any request by the Association that common counsel be used by the parties to an action or proceeding who are similarly situated unless to do so would be

inappropriate due to an actual or potential conflict of interest.

Section 3.

- (a) Not later than thirty (30) days following final disposition of a proceeding with respect to which the Association has received written request by an indemnitee for indemnification pursuant to this Article or with respect to which there has been an advancement of expenses pursuant to Section 12 of this Article, if such indemnification has not been ordered by a court, the Board of Directors shall meet and find whether the indemnitee met the standard of conduct set forth in Section 1 of this Article, and, if it finds that he/she did, or to the extent it so finds, shall authorize such indemnification.
- (b) Such standard shall be found to have been met unless (i) a judgment or other final adjudication adverse to the indemnitee established that the standard of conduct set forth in Section 1 of this Article was not met, or (ii) if the proceeding was disposed of other than by judgment or other final adjudication, the Board of Directors finds in good faith that, might had been disposed of by judgment or other final adjudication, such judgment or other final adjudication would have been adverse to the indemnitee and would have established that the standard of conduct set forth in Section 1 of this Article was not met.
- (c) If the Board of Directors fails or is unable to make the determination called for in paragraph (a) of this Section 3, or if indemnification is denied, in whole or part, because of adverse finding by the Board of Directors, or because the Board of Directors believes the expenses are unreasonable for which indemnification is requested, such action, inaction or inability of the Board of Directors shall in no way affect the right of the indemnitee to make application therefore in any court having jurisdiction thereof. In such action or proceeding, or suit brought by the Association to recover an advancement of expenses pursuant to the terms an undertaking, the issue shall be whether the indemnitee met the standard of conduct set forth in Section 1 of this Article, or whether the expenses were reasonable, as the case may be (not whether the finding of the Board of Directors with respect thereto was correct). If the judgment or other final adjudication in such action or proceeding establishes that the indemnitee met the standard set forth in Section 1 of this Article, or that the disallowed expenses were reasonable to the extent that it does, the Board of Directors shall then find such standard to have been met, the expenses to be reasonable, and shall grant such indemnification, and shall also grant to the indemnitee indemnification of the expenses incurred by him in connection with the action or proceeding resulting in the judgment or other final adjudication that such standard of conduct was met, or if pursuant to such court determination such person is entitled to less than the full amount of indemnification denied by the Association, the portion of such expenses proportionate to the amount of such indemnification so awarded. Neither the failure of the Board of Directors to have made timely a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances becomes the indemnitee has met the applicable standard of conduct set forth in Section 1 of this Article, nor an actual-determination by the Board of Directors that the indemnitee has not met such



applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard conduct. In any suit brought by the indemnitee to enforce a right to indemnification or by the Association to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to indemnification, under this Article or otherwise, shall be on the Association.

- (d) A finding by the Board of Directors pursuant to this Section 3 that the standard of conduct set forth in Section 1 of this Article has been met shall mean a finding (i) by the Board of Directors acting by a quorum consisting of Directors who are not parties to such proceeding (ii) if such a quorum is not obtainable, or if obtainable, such a quorum so directs, by the Board Directors upon the written opinion of independent legal counsel that indemnification is proper the circumstances because the applicable standard of conduct has been met, or by the members upon a finding that such standard of conduct has been met.

Section 4. Contractual Article. The rights conferred by this Article are contract rights which shall not be abrogated by any amendment or repeal of this Article with respect to events occurring prior to such amendment or repeal and shall, to the fullest extent permitted by law, be retroactive to events occurring prior to the adoption of this Article. No amendment of the Not-for-Profit Corporation Law, insofar as it reduces the permissible extent of the right of indemnification of an indemnitee under this Article, shall be effective as to such person with respect to any event, act or omission occurring or allegedly occurring prior to the effective date of such amendment irrespective of the date of any claim or legal action in respect thereto. This Article shall be binding on any successor to the Association, including any corporation or other entity which acquires all or substantially all of the Association's assets.

Section 5. Non-Exclusivity. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which any person covered hereby may be entitled other than pursuant to this Article. The Association is authorized to enter into agreements with any such person provided rights to indemnification or advancement of expenses in addition to the provisions therefore in this Article, and the Association's members and its Board of Directors are authorized to adopt, in their discretion, resolutions providing any such person with any such rights.

Section 6. Insurance. The Association may maintain insurance, at its expense, to protect itself and any Director, officer, employee or agent of the Association or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under this Article or applicable law.

Section 7. Indemnification of Members of the Association. The Association may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and the advancement of expenses to any employee or agent of the

Association with the same scope and effect as provided in this Article to Directors and Officers of the Association.

#### **ARTICLE XIV - AMENDMENTS**

The Board shall have the power to adopt, amend or repeal the By-Laws of the Association by a two-thirds (2/3) vote of the entire Board at any meeting of the Board.

#### **ARTICLE XV - CONSTRUCTION AND INTERPRETATION**

Section 1. The Association shall have the right to construe and interpret the provisions of these By-Laws and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof.

Section 2. Any conflict in construction or interpretation between the Association and another person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association. The Association may adopt and promulgate reasonable Rules and Regulations regarding the administration, interpretation, and enforcement, of the provisions of the Declaration and these By-Laws. In so adopting and promulgating such Rules and Regulations, and in making any finding, determination, ruling, or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules, or regulations, the Association shall take into consideration the best interests of the Owners of the Property to the end that the Property shall be preserved and maintained as high quality community.

Section 3. In the case of any conflict between the Certificate of Incorporation of the Association and these By-Laws, the Certificate of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.