

**BY-LAWS  
OF  
THE COMMONLAND COMMUNITY RESIDENTS'  
ASSOCIATION, INC.,**

**Table of Contents**

|  |     |
|--|-----|
| ARTICLE I.....   | 117 |
| Application of By-Laws.....                                | 117 |
| Section 1. Generally.....                                  | 117 |
| Section 2. Local Government Approvals.....                 | 117 |
| ARTICLE II.....  | 117 |
| Association of Residents.....                              | 117 |
| ARTICLE III.....   | 118 |
| Meetings of the Residents' Association.....                | 118 |
| Section 1. Quorum.....                                     | 118 |
| Section 2. Annual Meeting.....                             | 118 |
| Section 3. Special Meetings.....                           | 118 |
| Section 4. Robert's Rules of Order, Revised.....           | 119 |
| ARTICLE IV.....  | 119 |
| Neighborhood Meetings.....                                 | 119 |
| ARTICLE V.....   | 120 |
| Officers.....  | 120 |
| Section 1. Appointment and Removal.....                    | 120 |
| Section 2. President.....                                  | 120 |
| Section 3. Secretary.....                                  | 120 |
| Section 4. Treasurer.....                                  | 120 |
| Section 5. Ratification of Acts.....                       | 120 |
| ARTICLE VI.....  | 121 |
| Board of Directors.....                                    | 121 |
| Section 1. Management and Maintenance.....                 | 121 |
| Section 2. Election of Board of Directors.....             | 121 |
| Section 3. Meetings.....                                   | 121 |
| Section 5. Delegation of Powers.....                       | 123 |
| Section 6. Liability of Directors and Others.....          | 123 |
| Section 7. Indemnification.....                            | 123 |
| Section 8. Neighborhood Representative Vacancies.....      | 124 |
| Section 9. Directors' Term.....                            | 124 |
| Section 10. Resignation and Removal.....                   | 124 |
| Section 11. Compensation.....                              | 124 |
| Section 12. Regular Meetings.....                          | 125 |
| Section 13. Notice of Meeting.....                         | 125 |
| Section 14. Special Meetings.....                          | 125 |
| Section 15. Acts Reversible by Association Membership..... | 125 |
| Section 16. Waiver of Meeting Notice.....                  | 125 |
| Section 17. Evidence of Board Membership.....              | 126 |

|   |     |
|---|-----|
| Section 18. Fiscal Year.....                              | 126 |
| Section 19. Ratification of Acts.....                     | 126 |
| ARTICLE VII.....  | 127 |
| Assessments.....  | 127 |
| ARTICLE VIII.....   | 128 |
| Litigation.....   | 128 |
| Section 1. Representative Action, Allowable Expenses..... | 128 |
| Section 2. Obligation to Defend.....                      | 128 |
| ARTICLE IX.....   | 129 |
| Abatement and Restraint of Violations by Unit Owners..... | 129 |
| ARTICLE X.....  | 129 |
| Special Committees.....                                   | 129 |
| ARTICLE XI.....   | 129 |
| Membership and Voting.....                                | 129 |
| ARTICLE XII.....  | 130 |
| Resolution of Disputes.....                               | 130 |
| Section 1. Purpose.....                                   | 130 |
| Section 2. Agreement of Association Members.....          | 130 |
| Section 3. Committee Organization.....                    | 130 |
| Section 4. Appointment.....                               | 130 |
| Section 5. Commencement of Grievance Action.....          | 131 |
| Section 6. Decision Making.....                           | 131 |
| ARTICLE XIII.....   | 132 |
| Notices, Waiver of Notice.....                            | 132 |
| ARTICLE XIV.....  | 133 |
| Amendment of the By-Laws.....                             | 133 |
| ARTICLE XV.....   | 133 |
| Severability.....   | 133 |
| ARTICLE XVI.....  | 133 |
| Captions.....   | 133 |
| ARTICLE XVII.....   | 133 |
| Effective Date.....                                       | 133 |
| ARTICLE XVIII.....  | 134 |
| Corporate Seal.....                                       | 134 |
| ARTICLE XIX.....  | 134 |
| Conflicts.....  | 134 |

**BY-LAWS  
OF  
THE COMMONLAND COMMUNITY RESIDENTS'  
ASSOCIATION, INC.,**

A Not-for-Profit Corporation

The administration of Commonland Community and the Commonland Community Residents' Association, Inc. shall be governed by its Certificate of Incorporation, these By-Laws, and the Declaration of Covenants and Restrictions.

**ARTICLE I**

Application of By-Laws

Section 1. Generally.

All present and future unit owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the Declaration, the Certificate of Incorporation, these By-Laws, and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed of conveyance or the entering into of a lease or the occupancy of a unit shall constitute an agreement that the provisions of the Declaration, the Certificate of Incorporation, these By-Laws, and any rules and regulations made pursuant thereto, as they may be amended from time to time, are accepted, ratified, and will be complied with.

Section 2. Local Government Approvals.

These By-Laws shall be subject to the conditions, agreements, provisions and requirements included in the determinations and approvals of the Project by the Town of Ithaca and its agencies.

**ARTICLE II**

Association of Residents

The Commonland Community Resident's Association, Inc. is a Not-for-Profit Corporation organized under the provisions of the Not-for-Profit Corporations Law of the State of New York. The name in which contracts shall be entered into, title to property shall be

acquired, held, dealt in, and disposed of, bank accounts shall be opened, and suits shall be brought and defended by the Board of Directors or officers thereof on behalf of and agents for the unit owners in the manner specified by the Declaration of Covenants and Restrictions or these By-Laws is "Commonland Community Residents' Association, Inc., a Not-for-Profit Corporation."

## ARTICLE III

### Meetings of the Residents' Association

#### Section 1. Quorum.

The presence in person or by proxy at any meeting of the Association of lot owners entitled to cast at least seventy-five percent (75%) of the Class A votes and the Class B member so long as it shall exist, in response to a notice to all lot owners of record properly given, shall constitute a quorum. In the event that the requirements for a quorum are not present in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and unless otherwise specified in the By-Laws or the Declaration, any number of lot owners entitled to cast twenty-five percent (25%) of the Class A votes and the Class B member at such subsequent meeting will constitute a quorum. Unless otherwise expressly provided in the Declaration or the Certificate of Incorporation, any action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present or by proxy and who are voting.

#### Section 2. Annual Meeting.

There shall be an annual meeting of the Association on the \_\_\_\_ day of \_\_\_\_ at 7:30 p.m. at the property or at such other reasonable place or time (not more than fifty (50) days before or after such date) as may be designated by written notice by the Board of Directors delivered by first class mail to the unit owners not less than fifteen (15) days prior to the date fixed for such meeting. At or prior to an annual meeting, the Board of Directors shall furnish to the unit owners: (1) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each lot owner; (2) a recommendation for the determination of a maximum annual maintenance payment for each lot; (3) a statement of the common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each lot owner. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the unit owners who were not present at the annual meeting.

#### Section 3. Special Meetings.

Special Meetings of the Association may be held at any time at the property or at such other reasonable place to consider matters which, by the terms of the Declaration or of the Certificate of Incorporation, require the approval of all or some of the lot owners, or for any other reasonable purpose. Special Meetings shall be called by written notice, signed by a majority of

the Board of Directors, or by owners representing at least one-quarter interest (25%) of the undivided ownership of the common areas and facilities and delivered to all owners by first class mail not less than fifteen (15) days nor more than fifty (50) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

Section 4. Robert's Rules of Order, Revised.

Robert's Rules of Order, Revised, shall govern the conduct of the Association's meetings when it is not in conflict with the Declaration or these By-Laws.

## **ARTICLE IV**

### Neighborhood Meetings

To facilitate direct participation in the governance of the Commonland Community Residents' Association, mc, and to promote the development of a sense of community, Commonland Community is sectioned into neighborhoods as shown on the Final Subdivision Plat and Development Plan filed with the Town of Ithaca. At the point at which one-half (1/2) of the lots in a neighborhood become Class I lots, the owners shall commence neighborhood meetings as follows:

- (a) All residents of a neighborhood may attend neighborhood meetings.
- (b) Each owner shall be entitled to one (1) vote for each lot owned. If there is more than one owner with respect to any one lot, the vote shall be exercised as the owners amongst themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.
- (c) A Neighborhood Annual Meeting is to be held two (2) weeks prior to the annual meeting of the Residents' Association for the purpose of electing the neighborhood representative to the Board of Directors when that position for the neighborhood is vacant, and to conduct any other business as necessary. The presence in person or by proxy of lot owners holding at least fifty-one percent (51%) of the votes entitled to be cast by lot owners of the Cluster, shall constitute a quorum for the neighborhood meetings.
- (d) Regular neighborhood meetings may be held monthly or as necessary to consider issues or problems of the neighborhood and/or to take actions necessary to protect the interests of the neighborhood residents and the community in accordance with the By-Laws and the Declaration.

## ARTICLE V

### Officers

#### Section 1. Appointment and Removal

All officers and employees of the Association shall serve at the will of the Board of Directors. The officers shall be a president, secretary, and treasurer. The Board of Directors may appoint such other assistant officers as the Board of Directors may deem necessary. All officers shall be required to be lot owners. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board of Directors at the annual meeting of the Association, and shall be selected from the general membership, except that the president shall also be a neighborhood representative. Officers may be removed and replaced by the Board of Directors. The Board of Directors may, in its discretion, require that officers (and other employees of the Association) be subject to fidelity bond coverage. Resignation of any officers shall be in writing directed to the Board of Directors, which shall act promptly thereon.

#### Section 2. President

The President shall be the chief executive of the Board of Directors and shall preside at all meetings of the Residents' Association and of the Board of Directors, and may exercise the powers ordinarily assigned to and exercised by the presiding officer of an association, including the appointment of committees. The president shall exercise general supervision over the property and its affairs. S/he shall sign on behalf of the Association all conveyances, mortgages, and contracts of material importance to its business. S/he shall do and perform all acts which the Board of Directors may require.

#### Section 3. Secretary

The Secretary shall keep minutes of all proceedings of the Board of Directors and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the Board of Directors. In the absence or inability of the president, the secretary shall perform the functions of the president.

#### Section 4. Treasurer

The Treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to a manager, managing company, or accountant, or bookkeeper.

#### Section 5. Ratification of Acts

The membership may ratify actions of the officers subsequent thereto and thereby give full force and effect to such actions as though approved in advance.

# ARTICLE VI

## Board of Directors

### Section 1. Management and Maintenance.

The Management and Maintenance of the property and the business, property, and affairs of the Commonland Community Residents' Association, Inc. ("Association") shall be managed by a Board of Directors. The initial number of members of the Board of Directors shall be five (5). With the addition of each Phase, should it occur, the -Board will expand from an initial composition of five (5) members to seven (7) members at the time that four (4) Clusters in total are subjected to the Declaration; and to nine (9) members at the time that seven (7) Clusters in total are subjected to the Declaration, and thereafter.

The Board of Directors shall be composed as follows:

- a. Three (3) members appointed by the Declarant, and two (2) members elected as described in Section 2 of this Article;
- b. When and if the Board of Directors expands to seven (7) members, it shall be composed of three (3) members appointed by the Declarant and four (4) elected as described below;
- c. When and if the Board expands to nine (9) members, it shall be composed of one (1) representative from each Cluster as described below, with the balance of vacancies, if any, filled by appointment by the Declarant.

### Section 2. Election of Board of Directors.

At the time at which fifty percent (50%) of the lots in a Cluster become Class I lots, owners may elect a representative member to the Board of Directors. There shall be one (1) representative for each Cluster with fifty percent (50%) or more Class I lots. The representative from the Cluster shall be elected at the Neighborhood Annual Meeting as described in Article IV of these By-Laws. In the event that a neighborhood with more than fifty percent (50%) of the lots as Class I lots does not elect a representative to the Board of Directors, the vacancy on the Board of Directors for that Cluster shall be elected by vote of the general membership from among its members at the annual meeting of the Residents' Association. Until such time as a Cluster attains fifty percent (50%) of Class I lots the vacancy on the Board for that Cluster shall be filled by appointment by the Declarant, such board member to serve until the first annual meeting following the point at which fifty percent (50%) of the lots of the particular Cluster shall have become Class I lots.

Members of the Board of Directors with the exception of the Declarant or those appointed by the Declarant, must be members of the Residents' Association and must be residents of the State of New York.

Each member of the Board shall have one vote.

### Section 3. Meetings

The Board of Directors shall meet every six (6) weeks, at such time and place as it may

fix, or as necessary to conduct the business of the Resident's Association.

#### Section 4. Duties and Powers

The Board of Directors shall have all the powers, duties, and responsibilities as are now or may hereafter be provided by the Declaration, the Certificate of Incorporation, and these By-Laws, including but not limited to the following:

- 4.1 To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the property.
- 4.2 To engage the services of a manager or managing company, accountants, attorneys, or other employees or agents and to pay said persons a reasonable compensation therefore.
- 4.3 To operate, maintain, repair, improve, and replace the common areas and facilities.
- 4.4 To determine and pay the common expenses.
- 4.5 To assess and collect the proportionate share of common expenses from the unit owners.
- 4.6 To enter into contracts, deeds, leases, or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.
- 4.7 To open bank accounts on behalf of the Association and to designate the signatures therefore.
- 4.8 To purchase, sell, hold, convey, mortgage, or lease any one or more units in the name of the Association or its designee.
- 4.9 To bring, prosecute, and settle litigation for itself, the Association, and the property, provided that it shall make no settlement which results in liability against the Board of Directors, the Association, or the property in excess of five-hundred dollars (\$500.00) without prior approval of a majority of unit owners, which amount is to be subject to review at each annual meeting of the Residents' Association.
- 4.10 To obtain insurance for the Association with respect to units, lots, and the common areas and facilities, as well as Workers' Compensation Insurance.
- 4.11 To repair or restore the property following damage or destruction, or a permanent taking by the power of, or power in the nature of, eminent domain or by an action or deed in lieu of condemnation, not resulting in the removal of the property from the Residents' Association.
- 4.12 To own, purchase or lease, hold and sell, or otherwise dispose of, on behalf of the unit owners, items of personal property necessary to or convenient in the management of the business and affairs of the Association and the Board of Directors and in the operation of the property, including, without limitation, furniture, furnishings, fixtures, maintenance equipment, appliances, and supplies.



- 4.13 To keep books and records.
- 4.14 To borrow funds and execute promissory notes.
- 4.15 To have a corporate seal.
- 4.16 To approve and sign checks and issue payment vouchers.
- 4.17 To discharge liens against any portion of the property.
- 4.18 To do all other acts necessary for the operation and maintenance of the property, including the maintenance and repair of any unit or lot if the same is necessary to protect or preserve the property; provided, however, that the management shall operate no other businesses for profit.
- 4.19 To investigate any complaint or other matter referred to it by the Town of Ithaca and to take reasonable measures to enforce any lawful requirement contained in the Ithaca Town Board resolution of approval dated February 7, 1983.

#### Section 5. Delegation of Powers

The Board of Directors may delegate to a manager or a managing company all of its foregoing powers, duties, and responsibilities referred to in Article VI, Section 3 above except the following: the final determination of common expenses, budgets, and assessments based thereon, the promulgation of house rules and administrative rules and regulations, the power to enter into any contract involving more than one thousand dollars (\$1,000.00) in any one (1) fiscal year, the opening of bank accounts, the power to purchase, hold, sell, convey, mortgage, or lease any units in the name of the Association, or to bring, prosecute, defend, or settle litigation.

#### Section 6. Liability of Directors and Others

Members of the Board of Directors, the officers and any assistant officers, agents, and employees of the Association (i) shall not be liable to the unit owners as a result of their activities as such for any mistake or judgment, negligence or otherwise, except for their own willful misconduct or gross negligence; (ii) shall have no personal liability in contract to a unit owner or any other person or entity under any agreement, instrument, or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any unit owner of any person or entity, direct or imputed, by virtue of acts performed by them or acts performed for them in their capacity as such; (iv) shall have no personal liability arising out of the use, misuse, or condition of the property, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

#### Section 7. Indemnification

The unit owners shall indemnify and hold harmless any person, his/her heirs and personal representatives, from and against all personal liability and all expenses including counsel fees, incurred or imposed, or arising out of or in settlement of any threatened, pending, or completed action, suit, or proceedings, whether civil, criminal, administrative or investigative, instituted by

any one or more unit owners, or any other persons or entities, to which s/he shall be or shall be threatened to be made a party by reason of the fact that s/he is or was a member of the Board of Directors or an officer or assistant officer, agent, or employee of the Association, other than to the extent, if any, that such liability or expenses shall be attributable to his/her willful misconduct or bad faith, provided, in the case of any settlement, that the Board of Directors shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or vote of unit owners of the Board of Directors or otherwise. The indemnification by unit owners as contained herein shall be paid by the Board of Directors on behalf of the unit owners and shall constitute a common expense and shall be assessed and collectible as such.

#### Section 8. Neighborhood Representative Vacancies

Beginning with the first annual meeting and at every annual meeting thereafter, the Association shall form the Board of Directors as provided in Section 17 of this Article for the forthcoming year and fill any vacancies on the Board of Directors should a Cluster have failed to elect a neighborhood representative to fill the vacancy as described in Section 2 of this Article. Two (2) weeks prior to the annual meeting of the Association, at each neighborhood annual meeting, a neighborhood representative shall be elected if the neighborhood representative position is open on the Board of Directors, with representation maintained at one (1) representative from each neighborhood, as provided in Sections 1 and 2 of this Article.

#### Section 9. Directors' Term

Except as provided in Article VI, Section 2 of these By-Laws, members of the Board of Directors shall serve for a term of two (2) years. The terms of no more than four (4) members will end each year. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation, or removal. Any member of the Board of Directors who fails to attend three (3) consecutive meetings of the Board of Directors, or fails to attend at least twenty-five percent (25%) of the Board of Directors' meetings held during any calendar year, shall forfeit his/her membership on the Board of Directors.

#### Section 10. Resignation and Removal

Any member of the Board of Directors may resign at any time by giving written notice to the president of the Association or the remaining members of the Board of Directors. Any member of the Board of Directors may be removed from membership on the Board of Directors by a two-thirds (2/3) majority of the total number of votes entitled to be cast by members of the Association. Whenever there shall occur a vacancy on the Board of Directors due to death, resignation, removal, or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the Association for the balance of the unexpired term, if any.

#### Section 11. Compensation

The members of the Board of Directors shall receive no compensation for their services

unless expressly approved by vote of a majority of the members of the Association; provided however, that any member of the Board of Directors may be employed by the Association in another capacity and receive compensation for such employment, if otherwise allowed.

#### Section 12. Regular Meetings

The meetings of the Board of Directors shall be held at such places within the State of New York as the Board of Directors shall determine. The number of members of the Board of Directors entitled to cast fifty-one percent (51%) of the votes of the Board of Directors shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board of Directors. All meetings of the Board of Directors are open to the general membership of the Association, but only members of the Board may vote.

#### Section 13. Notice of Meeting

Regular meetings of the Board of Directors may be held without call or notice.

#### Section 14. Special Meetings

Special meetings of the Board of Directors may be called by the President or by any three (3) Directors. The person or persons calling a special meeting of the Board of Directors shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda. Special meetings may also be called by the general membership upon the filing of a request for a special meeting by a petition filed with the secretary and signed by at least fifteen (15) lot owners.

#### Section 15. Acts Reversible by Association Membership

Actions taken by the Board of Directors may be overturned by the general membership at a special meeting called for that purpose. The special meeting can be called by the filing with the secretary of a petition signed by fifteen (15) members of the Association. At such special meeting, a majority vote of two-thirds (2/3) of the total number of votes entitled to be cast at such a meeting will be sufficient to overturn a decision of the Board of Directors. A quorum for such special meeting shall consist of the number of owners present in person or by proxy entitled to cast seventy-five percent (75%) of the Class A votes and the Class B member so long as it shall exist. The decision taken by the membership at the special meeting shall direct the action of the Board in the matter in question, and the Board of Directors may at that time call another meeting of the Association on the same matter, as provided by Article III, Section 1.

#### Section 16. Waiver of Meeting Notice

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

express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Board of Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

#### Section 17. Evidence of Board Membership

After the election of the members of the Board of Directors at the first annual meeting of the Association they shall execute, acknowledge, and record an affidavit stating the names of the members of the newly-elected Board of Directors. Thereafter, any three (3) persons who are designated of record as being members of the most recent Board of Directors (regardless of whether they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then-current Board of Directors. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Board of Directors and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

#### Section 18. Fiscal Year

The fiscal year shall be determined by the Board of Directors.

#### Section 19. Ratification of Acts

The membership may ratify actions taken by the Board of Directors subsequent to such actions and thereby give such action full force and effect as though approved in advance.

## ARTICLE VII

### 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 the date of delinquency at the maximum legal rate(s) of interest, as the same may vary during the continuance of such delinquency, 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. Interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such Assessment. No owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the common areas and facilities or abandonment of his/her lot or unit.

Written notice of any meeting of members called for the purpose of taking any action authorized under Section 3 or Section 4 of Article VII of the Declaration shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of members or of proxies entitled to cast seventy-five percent (75%) of the Class A votes and the Class B member so long as it shall exist, shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be two-thirds (2/3) of the required quorum at the preceding meeting and the Class B member so long as it shall exist. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

## ARTICLE VIII

### Litigation

#### Section 1. Representative Action, Allowable Expenses

If any action is brought by one or more but less than all unit owners on behalf of the Association upon written permission from the Board of Directors and recovery is had, the plaintiff's expenses, including a reasonable counsel fee, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the Board of Directors, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the unit owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense or otherwise.

#### Section 2. Obligation to Defend

Complaints brought against the Association, the Board of Directors or the officers, employees, or agents thereof, in their respective capacities as such or the property as a whole, shall be directed to the Board of Directors, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the Board of Directors and the unit owners and mortgagees shall have no right to participate other than through the Board of Directors in such defense. Complaints against one or more, but less than all unit owners, shall be directed to such unit owners, who shall promptly give written notice thereof to the Board of Directors and to the mortgagees affecting such units, and shall be defended by such unit owners.

## **ARTICLE IX**

### **Abatement and Restraint of Violations by Unit Owners**

The violation of any house rules or administrative rules or regulations adopted by the Board of Directors or by the Residents' Association, or the breach of any provision contained herein, or the breach of any provision of the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth in these By-Laws, to seek to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

## **ARTICLE X**

### **Special Committees**

The Board of Directors by resolution may designate one or more special committees, each committee to consist of three (3) or more unit owners which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such Special Committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required. The members of such Special Committee or committees designated shall be appointed by the Board of Directors or the President. The Board of Directors or President may appoint unit owners to fill vacancies on each of said Special Committees occasioned by death, resignation, removal, or inability to act for any extended period of time.

## **ARTICLE XI**

### **Membership and Voting**

The members of the Association shall be the fee owners of the lots. The Board of Directors shall maintain a list of owners, which shall be updated on a regular basis. Disputes over the membership list shall be resolved by reference to the official records of the Tompkins County Clerk's Office. At any meeting of the Association of unit owners, each unit owner, including the Declarant, either in person or by proxy, shall be entitled to one (1) vote per recorded lot owned. If there is more than one (1) lot owned with respect to a particular lot, any or all of such lot owners may attend any meeting of the Association, but it shall be necessary for all such unit owners present to act unanimously in order to cast the vote pertaining to their unit. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the Association Secretary at least five (5) days prior

thereto. Proxies for special meetings of the Association must be of record with the Secretary at least two (2) days prior to such meeting.

There shall be two (2) classes of voting membership, as described in Article VIII of the Declaration.

## **ARTICLE XII**

### **Resolution of Disputes**

#### **Section 1. Purpose.**

In order to promote democratic self-rule by the Association, uniformity and stability in operation, and timely and appropriate resolution of grievances and disputes, there shall be established a Grievance and Disciplinary Committee (G&D Committee).

#### **Section 2. Agreement of Association Members.**

By becoming a member of the Commonland Community Residents' Association, a unit owner agrees to submit to the G&D Committee any dispute which may arise between such a person and any other owner or occupant of a unit, the Commonland Community Residents' Association, or Commonland Community Board of Directors, subcommittee(s), or officers which cannot be resolved between the concerned parties in bona fide private negotiations. A unit owner must exhaust the means provided in this section for the resolution of disputes before resorting to a court of law in all matters concerning the internal affairs of the Association.

#### **Section 3. Committee Organization.**

The G&D Committee shall consist of five (5) members, each of whom must be unit owners in the Commonland Community. No members of the G&D Committee shall serve on the Board of Directors or any committee or subcommittee of, or serve as an officer of, the Commonland Community Residents' Association during the time s/he is a member of the G&D Committee.

#### **Section 4. Appointment.**

Members of the G&D Committee shall be appointed by the Board of Directors of the Association. Members of such committee shall serve for a term of two (2) years; provided, however, that three of the initial members of the G&D Committee appointed by the Board of Directors shall serve for an initial term of two (2) years and two of the initial members of the committee shall serve for initial terms of one (1) year. Whenever there shall occur a vacancy on the G&D Committee due to death, resignation, or any other cause, the Board of Directors of the Association shall appoint a successor member to serve for the balance of the unexpired term.



## Section 5. Commencement of Grievance Action.

- 5.1 Written Complaint. - A grievance between two or more unit owners, or between a unit owner or owners and the Commonland Community Residents' Association, Board of Directors, or officers, shall be submitted to the G&D Committee, along with a filing fee of \$20.00, after bona fide efforts have been made by the concerned parties to reconcile the difference between them through private negotiations and through arbitration efforts of the Neighborhood Representative to the Board, or the President of the Board of Directors. A grievance shall be filed by the moving parties with the committee by preparing and submitting to the committee a written complaint naming the parties involved and stating the facts that form the basis of the grievance. As evidence that bona fide efforts have been made by the concerned parties to resolve the differences between them, the moving party shall also file with the committee at the time a grievance complaint is filed, an affidavit signed by the moving party and the Neighborhood Representative or the President of the Board of Directors setting forth in detail the nature of the efforts previously made to reconcile the differences between the concerned parties.
- 5.2 Notice. - Within three (3) days of the date on which the written complaint is filed with the G&D Committee, the moving party shall serve a copy of the complaint and a notice of grievance upon the opposing party. The notice of grievance shall contain the following: (a) names of parties involved; (b) nature and description of the dispute; (c) names of witnesses to be called upon to testify or to submit written statements.

## Section 6. Decision Making.

After having read and evaluated the evidence presented to the committee, the members of the G&D Committee shall propose possible solutions to the dispute between the concerned parties. The proposed solutions shall be voted upon in a secret ballot held between the five (5) members of the committee. Whichever solution receives the majority of votes cast shall be the decision of the committee. The G&D Committee shall arrive at a final decision in a grievance action timely and properly brought before it not more than twenty-one (21) days following the date on which all evidence has been duly submitted to the committee by the parties involved in such grievance action.

Each decision of the G&D Committee shall be announced to the community membership no later than thirty (30) days after each such decision has been reached by the committee. A written statement of the decision describing the conduct or Association ruling that has been disputed, the decision reached by the committee concerning the dispute, and the reasons of the committee for reaching such a decision shall be produced by the committee and submitted to the Secretary of the Association. The Secretary shall maintain a file containing all of the decisions of the G&D Committee. Such file shall be open to the inspection of Association members, members of the Board of Directors, and officers of the Association.

## **ARTICLE XIII**

### **Notices, Waiver of Notice**

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered twenty-four (24) hours after a copy of the same has been deposited in the United States Postal Service, first class postage prepaid. Notice to unit owners shall be addressed to each unit owner at the address given by such unit owner to the Board of Directors for the purpose of service of such notice, or to the unit of such unit owner if no such address has been given to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors. Notice to the Board of Directors shall be addressed to:

Any unit owner may at any time waive any notice required to be given under these By-Laws, or by statute or otherwise. The presence of a unit owner in person at any meeting of the unit owners shall be deemed such waiver.

## **ARTICLE XIV**

### **Amendment of the By-Laws**

These By-Laws may be amended by a three-quarters (3/4) majority vote of a quorum of Association members voting in person or by proxy at a meeting duly called for such purpose. For the purpose of amending the By-Laws, a quorum shall consist of the number of members entitled to cast seventy-five percent (75%) of the Class A votes and the Class B member so long as it shall exist. This quorum is required for all votes taken pertaining to changes and amendments of the By-Laws. Upon such affirmative vote, the Board of Directors shall acknowledge the amended By-Laws, setting forth the fact of the required affirmative vote of the unit owners and the amendments shall be effective upon recording, with the exception that the Federal Home Administration or the Veterans Administration shall have the right to veto amendments while there are Class II lots, provided that neither agency shall have such right to veto unless an FHA or VA mortgage was placed on one or more of the units at the time of sale of such units by Declarant.

## **ARTICLE XV**

### **Severability**

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

## **ARTICLE XVI**

### **Captions**

The Captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these By-Laws nor the intent of any provision hereof.

## **ARTICLE XVII**

### **Effective Date**

These By-Laws shall take effect upon recording of the Declaration.

## **ARTICLE XVIII**

### **Corporate Seal**

The Association shall have a seal in circular form having within its circumference the words: Commonland Community Residents' Association, Inc., New York, 1983.

## **ARTICLE XIX**

### **Conflicts**

In. the case of any conflict between the Certificate of Incorporation 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.