

BY-LAWS
OF
HICKORY GROVE VILLAGE CONDOMINIUM

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**ARTICLE I
PLAN OF UNIT OWNERSHIP**

Section 1.01 Unit Ownership. The Property, including the Improvements thereon, located at 211 French Road, in the Town of Cheektowaga and County of Erie, New York (and more fully described on Schedule A annexed to the Declaration establishing the Condominium) known as Hickory Grove Village Condominium ("Property") has been or will be, prior to conveyance of the first Unit therein, submitted by The Marrano/Marc Equity Corporation, a Florida Corporation ("Sponsor"), to the provisions of Article 9-B of the Real Property Law of the State of New York by the Declaration and shall be known as "Hickory Grove Village Condominium" (the "Condominium").

Section 1.02 Applicability of By-Laws. The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the Units and Lots and all improvements thereon, including the Units, the Lots, the green areas and open spaces and all easements, rights and appurtenances thereto, and all other property, personal or mixed, intended for use in connection therewith. The term "Units" shall include the exterior walls, roof and foundation of the structures.

Section 1.03 Personal Application. All present and future owners (hereinafter referred to as "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 these By-Laws, the Declaration and any Rules and Regulations which may be promulgated.

The acquisition, lease or occupancy of a Unit will signify that these By-Laws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time, are accepted and will be complied with.

**ARTICLE II
UNIT OWNERS - VOTING RIGHTS AND MEETINGS**

Section 2.01 Voting. Each Owner of a Unit (including the Sponsor) shall be entitled to vote at all meetings of Unit Owners for each Unit owned by such Unit Owner, but the Board of Managers may not cast any of its votes for the election of any member to the Board. The vote of each Unit shall be weighted to correspond to the percentage interest in the common elements of the Unit owned. If a Unit is owned by more than one person, as joint tenants, tenants by the entirety or as tenants in common, the persons owning such Unit shall reach agreement as to the matter voted upon and cast their vote for their Unit. Upon the recording of title to a Unit in the name of joint Owners, a document can be filed with the Board of Managers designating which of the Owners of such Unit shall have the right to cast votes for the Unit. If such a document is not filed, the Board of Managers may in good faith adopt a rule or policy for making a determination as to which of the Owners may cast the vote for the Unit. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Voting shall be on a percentage basis and the percentage of the

total number of votes to which the Owner is entitled shall be the percentage thereof assigned to the Unit in Section 5.02 of the Declaration.

Section 2.02 Right to Vote. At any meeting of the Unit Owners, every Unit Owner having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 2.03 Proxies. All proxies shall be in writing and shall be filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting. Any proxy shall be rendered invalid if the Unit Owner is present at such meeting.

Section 2.04 Annual Meetings; First Election of Board of Managers. The Sponsor shall have control of the Board of Managers for five (5) years from the date of closing of title to the first Unit or until the transfer of title to more than 50% of the Units, whichever shall first occur. After the transfer of title to more than 50% of the Units or the termination of said five (5) year period the Sponsor shall notify all Unit Owners that the first meeting shall be held within thirty (30) days thereafter. At such meeting all Unit Owners, including the Sponsor, shall elect a new three (3) member Board. Notwithstanding any contrary provision of these By-Laws or the Declaration, and subject to the following sentence, so long as the Sponsor of the Condominium shall continue to own one (1) Unit or Lot, the Sponsor shall have the right to appoint or elect one (1) of the three (3) members of the Board of Managers. If Sponsor exercises its right to so appoint a member of the Board of Managers Sponsor may not cast its votes with respect to the Units which it owns for the other members of the Board. When the Sponsor no longer owns any Unit or Lot it shall have no further right to appoint any members of the Board of Managers. Except as otherwise provided in Section 4.04(a) hereof, members of the Board of Managers elected by the Sponsor shall serve for a term of one year. All other members of the Board of Managers shall be elected by the Unit Owners (excluding Sponsor if Sponsor has exercised its right to appoint a member of the Board of Managers) and shall serve for the terms prescribed by these By-Laws.

Annual meetings of the Unit Owners shall be held on the first Tuesday of _____ of each year at 7:00 p.m. or on such other date and such other time and at such place convenient to the Unit Owners as shall be designated by the Board of Managers. At such meetings there shall be elected by ballot of the Unit Owners a Board of Managers in accordance with the requirements of Section 4.04 of these By-Laws. The Unit Owners may also transact such other business of the Condominium at such meeting as may properly come before them.

Section 2.05 Place of Meetings. Meetings of the Unit Owners shall be held at a suitable place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 2.06 Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners if so directed by resolution of the Board of Managers or upon a petition signed and presented to the Secretary by the Owners of

Units having more than a 40% interest in the common elements of the Condominium. The notice of any special meeting shall state the time and place of such meeting and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.07 Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Unit Owners at least ten (10) but not more than fifty (50) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to (i) each Unit Owner of record, at such Unit Owner's permanent residence or other address as such Unit Owner shall have designated by notice in writing to the Secretary, and (ii) all mortgagees of a Unit who have requested the same. If the purpose of any meeting shall be to act upon a proposed amendment to the Declaration or to these By-Laws, the notice of meeting shall be mailed at least thirty (30) days and not more than fifty (50) days prior to such meeting. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

Section 2.08 Waiver and Consent. Whenever the vote of the Unit Owners at a meeting is required or permitted by any provision of the Declaration, applicable law or these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Unit Owners may be dispensed with if all Unit Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

Section 2.09 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of Unit Owners owning Units having 50% of the total interest in the common elements of the Condominium shall constitute a quorum at all meetings of the Unit Owners. If any meeting of Unit Owners cannot be held because a quorum has not attended, Unit Owners owning Units having a majority in common interest of those present at such meeting, either in person or by proxy, may, with notice to all Unit Owners, whether present or not, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, and from time to time thereafter, until a quorum shall be present or represented. Once a quorum shall have been established at any meeting of Unit Owners such quorum shall not be broken due to the absence of members initially constituting the quorum at a meeting adjourned to a later date for a continuation of the same affairs.

Section 2.10 Majority of Vote. The vote of a majority of Unit Owners at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where in the Declaration or these By-Laws or by law, a higher percentage vote is required. The term "majority of Unit Owners" shall mean those Unit Owners holding more than 50% of the total authorized votes of all Unit Owners present in person or by proxy and voting at any meeting of the Unit Owners, in accordance with Section 2.01 hereof.

Section 2.11 Order of Business at Meetings. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Report of Board of Managers
- (f) Reports of committees
- (g) Election of members of the Board of Managers, in the case of an annual meeting
- (h) Unfinished business
- (i) New business

**ARTICLE III
BOARD OF MANAGERS**

Section 3.01 Number and Qualification. The affairs of the Condominium shall be governed by a Board of Managers, initially consisting of three (3) persons designated by the Sponsor. Successors to these designees shall be elected by the Unit Owners at the first meeting of Unit Owners held pursuant to Section 2.04 of these By-Laws. Commencing with the election at such meeting, the Board of Managers shall be composed of three (3) persons, all of whom shall be Owner-occupants or members of an Owner-occupant's household who are unrelated to the Sponsor or its principals (subject to the right of Sponsor to appoint one (1) member of the Board until Sponsor no longer owns any Units in the Condominium), so long as such persons are willing to serve. Thereafter, a majority of the Board of Managers must be Owner-occupants or members of an Owner-occupant's household who are unrelated to the Sponsor or its principals.

Section 3.02 Powers and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the Unit Owners or which require the consent of Sponsor as set forth in the Declaration. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

- (a) Determination and levying of annual charges (which, together with special assessments shall collectively be referred to as "common charges") payable in monthly installments (or such other periodic installments as the Board shall determine) to cover the cost of common expenses required for the affairs of the Condominium, including without limitation, the operation and

maintenance of the Property. The Board of Managers may increase the annual charges or impose a special assessment in excess of that amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners in accordance with their respective common interests.

(b) Collection and use of the assessments collected to arrange for repair, maintenance and replacement of the private roadways within Hickory Grove Village Condominium, snow removal from all driveways, front walkways and sidewalks within Hickory Grove Village Condominium, and for lawn cutting and care of grass and green areas, flower beds and shrub beds within Hickory Grove Village Condominium, and for such other purposes as required pursuant to the Offering Plan, Declaration of Condominium and these By-Laws.

(c) Operation, care, upkeep and maintenance of the Property and the private roadways.

(d) Making of repairs, additions and improvements to or alterations of the Property in accordance with the provisions of these By-Laws and the Declaration of Condominium.

(e) Obtaining and maintaining insurance for the Property pursuant to the provisions of Section 8.01 hereof.

(f) Paying any taxes and filing tax returns required of the Condominium.

(g) Bringing and defending actions against the Owners which are pertinent to the operation of the Condominium and bringing actions on behalf of Unit Owners as provided for in Section 339-dd of the Real Property Law or in the Declaration.

(h) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Property, provided, however that (i) the consent of at least 66-2/3% in number and in common interest of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of 15% of the amount of the then current annual budget of the Condominium and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the common expenses without the consent of the Unit Owner.

(i) Adoption and amendment of reasonable Rules and Regulations covering the details of operation of the Condominium and use of the Property. Such Rules and Regulations and amendments shall be binding upon Unit Owners when the Board has approved them in writing. A copy of such Rules and Regulations and all amendments shall be delivered to each Unit Owner.

(j) Collection of delinquent assessments by suit or otherwise, abatement of nuisances and the seeking of damages from Unit Owners for violations of the Rules and Regulations referred to herein.

(k) Employing and terminating the employment of employees and independent contractors, purchasing supplies and equipment, entering into contracts and generally having the powers of manager in connection with the matters hereinabove set forth.

(l) Complying with any change in New York law as it may affect the Condominium.

(m) Taking any and all actions as are necessary or appropriate in the judgment of the Board of Managers to enforce the provisions of the Declaration and compliance therewith.

Notwithstanding anything to the contrary contained in these By-Laws, so long as the Sponsor owns at least one (1) Unit or Lot, the Board of Managers may not, without the Sponsor's prior written consent, (i) except for necessary repairs or any work required by law, make any addition, alteration or improvement to the Property, or (ii) borrow money on behalf of the Condominium, or (iii) reduce the quantity or quality of services or maintenance of the Property, or (iv) hire any employee in addition to the employees, if any, provided for in the initial budget of the Condominium except as may be necessary to maintain the quantity or quality of services or maintenance.

Section 3.03 Committees Acting on Behalf of Board of Managers. Except as limited by this Section 3.03, the Board of Managers may, by resolution or resolutions passed by a majority of the whole Board, designate one or more committees, each such committee to consist of one (1) or more Unit Owners, at least one of whom shall be a member of the Board of Managers, which to the extent provided in said resolution or resolutions, shall have and may exercise such powers of the Board of Managers in the management of the business and affairs of the Condominium as such resolution or resolutions shall provide.

Section 3.04 Nomination, Election and Term of Office. Nominations for election to the Board of Managers shall be made by a Nominating Committee which shall be appointed by the Board of Managers. The Board of Managers shall also receive any nominations in writing presented by Unit Owners not on the Nominating Committee at least ten (10) days prior to the annual meeting and shall include said nominations on the ballot. Nominations may also be made from the floor at the annual meeting of the Condominium Unit Owners. The Nominating Committee shall make as many nominations for election to the Board of Managers as it shall, in its sole discretion, determine, but not less than the number of vacancies as are to be filled as provided below.

Except as provided in Section 2.04 of these By-Laws, which gives Sponsor certain rights to elect members of the Board of Managers:

(a) The term of office of two (2) of the three (3) members of the Board of Managers elected at the first meeting of Unit Owners (including any member of the Board appointed by Sponsor) shall be fixed to expire as of the date of the second succeeding annual meeting of the Unit Owners and the term of office of one (1) of the three (3) members of the Board of Managers elected at the first meeting of the Unit Owners shall be fixed to expire as of the date of the next succeeding annual meeting of the Unit Owners;

(b) At the expiration of the initial term of office of each respective member of the Board of Managers, a successor shall be elected to serve for a term of two (2) years; and

(c) The members of the Board of Managers shall hold office until their respective successors shall have been elected by the Unit Owners.

Section 3.05 Removal of Members of the Board of Managers. Subject to the limitations set forth below, at any regular or special meeting of Unit Owners, any one or more of the members of the Board of Managers elected by the Unit Owners may be removed, with or without cause, by a majority of Unit Owners in number and in common interest other than the Sponsor, and a successor may then and there or at some later date be elected to fill the vacancy thus created. Any member of the Board of Managers whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting. Members of the Board of Managers appointed by the Sponsor may be removed without cause only by the Sponsor, but may be removed for cause by the Unit Owners in the same manner as any other member of the Board of Managers may be removed for cause; the successor to such removed member shall be appointed by the Sponsor.

Section 3.06 Resignation of Members of the Board of Managers. A member of the Board of Managers may resign at any time by giving written notice to the Board, or to the President or Secretary of the Condominium. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board, President or Secretary, as the case may be, and acceptance of the resignation shall not be necessary to make it effective.

Section 3.07 Vacancies. Except as hereinafter provided, vacancies in the Board of Managers occurring other than as a result of removal pursuant to Section 3.05 shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Managers until the next annual meeting of the Unit Owners or until a successor is elected. If the vacancy occurs with respect to any member of the Board of Managers designated or elected by the Sponsor pursuant to these By-Laws, the Sponsor shall have the sole right to choose the successor to fill the unexpired portion of the term of such Board member.

Section 3.08 Organizational Meeting. The first organizational meeting of the Board shall be held within thirty (30) days after the Board shall have been constituted pursuant to these By-Laws. The first meeting of each Board newly elected by the Unit Owners shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter at such date, time and place as may be practicable.

Section 3.09 Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the members of the Board. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers personally, by mail or by telegram, at least two (2) days prior to the day set for such meeting. Any one or more members of the Board may participate in such regular meetings or special meetings as described below 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 such meeting.

Section 3.10 Special Meetings. Special meetings of the Board of Managers may be called by the President on two (2) days' notice to each member of the Board either personally or by mail or telegram, which notice shall state the time, place and purpose of the meeting. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) members of the Board of Managers.

Any member of the Board of Managers may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Managers at any meeting of the Board shall constitute a waiver of notice by such member of the time and place of the meeting and the business to be conducted thereat. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.11 Quorum of Board of Managers. At all meetings of the Board of Managers, a majority of the members thereof shall constitute a quorum for the transaction of business, and, except as may be otherwise specifically provided by statute or by the Declaration or by these By-Laws, the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time, with notice to all Unit Owners until a quorum shall be present. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 3.12 No Compensation. No member of the Board of Managers shall receive any compensation for acting as such.

Section 3.13 Liability of the Board of Managers. The members of the Board of Managers shall not be liable to the Unit Owners for any errors of judgment, negligence, or otherwise in acting as a member of the Board of Managers except for their own individual willful misconduct or bad faith. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. Every agreement made by the Board on behalf of the Condominium shall provide that the members of the Board are acting only as agents for the Condominium and shall have no personal liability thereunder.

No member of the Board of Managers shall engage in any transactions which conflict with such person's duties as a Board member without the prior approval of a disinterested majority of the remaining Board members after full disclosure of all material facts.

Section 3.14 Managing Agent and Manager. The Board of Managers may employ for the Condominium a managing agent or manager at a compensation established by the Board of Managers to perform such duties and services as the Board of Managers shall authorize.

ARTICLE IV OFFICERS

Section 4.01 Designation. The principal officers of the Condominium shall be the President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Managers.

Section 4.02 Election of Officers. The officers of the Condominium shall be elected annually by the Board of Managers at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 4.03 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

Section 4.04 President. The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of Unit Owners and of the Board of Managers. The President shall execute agreements, contracts and leases on behalf of the Condominium except as the Board of Managers by resolution may delegate to other officers of the Condominium, or otherwise determine. He shall have the authority to do any and all acts and things and to direct any officers, employees or agents of the Condominium to do such acts and things not prohibited by applicable law or these By-Laws as are reasonably appropriate for the fulfillment of the purposes of the Condominium and to the execution and enforcement of the Declaration, these By-Laws and any Rules and Regulations established by the Condominium Board of Managers.

Section 4.05 Secretary. The Secretary shall (i) keep the minutes of all meetings of the Unit Owners and of the Board of Managers; (ii) record all votes and the minutes of all proceedings in a book to be kept for that purpose; (iii) have charge of such books and papers as the Board of Managers may direct; (iv) give or cause to be given notice of all meetings of Unit Owners and all special meetings of the Board of Managers; and (v) in general, perform all the duties incident to the office of Secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 4.06 Treasurer. The Treasurer shall (i) have the responsibility for Condominium funds, including the collection and handling of common charges; (ii) be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; (iii) be responsible for the deposit of all moneys and other valuable effects in the name of the Condominium in such depositories as may from time to time be designated by the Board of Managers; (vi) sign or endorse any and all checks, notes or similar instruments in the ordinary course of business, except as the Board in any specific instance may otherwise direct; and (v) in general, perform all the duties incident to the office of Treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 4.07 Agreements, Contracts, Leases, etc. The Board of Managers by resolution may authorize any officers or agents of the Condominium in any specific instance to execute agreements, contracts, leases or related documents on behalf of the Condominium.

Section 4.08 Compensation of Officers. No officer shall receive any compensation for acting as such.

Section 4.09 Conflicts of Interest. No officer shall engage in any transaction which conflicts with such person's duties as an officer without the prior approval of a majority of the Board of Managers after full disclosure of all material facts.

ARTICLE V COMMON CHARGES AND ASSESSMENTS

Section 5.01 Determination of Common Charges. The Board of Managers shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Condominium and shall send a copy of the proposed budget to all Unit Owners at least fifteen (15) days prior to the adoption thereof. The Board shall send a copy of the budget as adopted and any supplement thereto to every Unit Owner. The Board of Managers shall determine the total amount required, including the operational items such as insurance, snow removal, maintenance of the lawns and shrub beds and other operating expenses, as well as required reserves and charges, to cover any deficits from prior years. The total annual requirements shall be assessed as a single sum against all Units and prorated against each of said Units in accordance with the

respective common interests appurtenant to such Units. Said common charges or assessments shall be payable in monthly installments unless the Board of Managers establishes other periods for payment. Special assessments, should such be required, shall be allocated, levied and paid in the same manner as hereinabove provided for Annual Charges, except for assessments levied against particular Unit Owners as provided in Section 7.02 hereof. The Board of Managers shall have the authority to impose any special assessments as are provided for or authorized by the provisions of the Declaration.

Section 5.02 Collection of Assessments. If a common charge or assessment or any installment thereof is not paid within ten (10) days after the due date, the Board of Managers may impose a late charge in such amount or amounts as the Board of Managers deems reasonable, provided such late charges are equitably and uniformly applied.

If the common charge or assessment or installment thereof is not paid within thirty (30) days after the due date, the common charge or assessment shall bear interest from the due date at such rate as may be fixed by the Board of Managers from time to time, such rate not to exceed the maximum rate of interest then permitted by law; and the Board of Managers may bring legal action against the Unit Owner personally obligated to pay the same or foreclose the lien on such Unit pursuant to, and in the manner provided by New York State Law. The cost of any such proceedings and other costs and expenses incurred in efforts to collect such past due common charges or assessments, including reasonable attorney's fees, shall be added to the amount of such common charge or assessment, accelerated installments, if any, late charges and interest. Any amounts collected on past due common charges or assessments shall be applied in the following order: attorney's fees, other costs of collection, interest, late charges, and then the common charges or assessments, beginning with the common charge or assessment past due for the longest period.

Section 5.03 Rights and Obligations re Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board of Managers to foreclose a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the Unit. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5.04 Notice of Default. The Board of Managers, when giving notice to a Unit Owner of a default in paying common charges or other default, shall, at the request of any mortgagee, send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board of Managers. The mortgagee shall have the right to cure the Unit Owner's default with respect to the payment of common charges or other default of the Unit Owner which could result in a lien against the Unit of such Owner.

Section 5.05 Statement of Common Charges. Upon the written request of a Unit Owner, lessee or mortgagee with respect to the Unit owned by such Owner, leased by such lessee or upon which such mortgagee holds a mortgage, or any prospective purchaser, lessee, mortgagee or title insurer of such Unit, the Board of Managers, the Manager or the managing agent shall promptly furnish a certificate in writing setting forth with respect to such Unit as of the date of such certificate (i) whether or not the common charges due have been paid; (ii) the amount of such common charges, including interest and costs, if any, due and payable; and (iii) whether any other amounts or charges are owing to the Condominium, e.g., for a special assessment or for the cost of extinguishing a violation of the Declaration or Rules and Regulations. A reasonable charge, as determined by the Board of Managers, may be made for the issuance of this certificate, except when requested by Sponsor for any Unit owned by Sponsor. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Board of Managers and any bona fide purchaser or lessee of, or lender on, or title insurer of, the Unit with respect to which the request was made.

Section 5.06 Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account," into which shall be deposited the operating portion of all common charges and special assessments as fixed and determined for all Units. Disbursements from said account shall be for the general needs of the operation of the Condominium including, but not limited to, wages, repairs, maintenance and other operating expenses.

Section 5.07 Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes.

ARTICLE VI RECORDS AND AUDITS

Section 6.01 Annual Statement. An annual report (audit or review) of the receipts and expenditures of the Condominium, prepared by an independent public or certified public accountant, shall be delivered to all Unit Owners.

The cost of the annual report and other services required by this Section 6.01 shall be paid by the Association as a common expense.

Section 6.02 Inspection of Records. Every Unit Owner or his representative shall be entitled to examine the books and records of the Condominium on reasonable notice to the Board of Managers but not more often than once a month.

Section 6.03 Availability of Records and Legal Documents. The Board of Managers shall make available for inspection by Unit Owners upon reasonable notice and during normal business hours current copies of the Condominium's Declaration, By-Laws, Rules and Regulations, budget, schedule of assessments and any other books, records and financial statements of the Condominium. The Board may furnish copies of such documents to such parties and may charge a reasonable fee to cover the cost of furnishing such copies.

**ARTICLE VII
MAINTENANCE OF THE CONDOMINIUM PROPERTY**

Section 7.01 Repairs and Maintenance Which are the Responsibility of the Board of Managers. Repair, maintenance and replacement of the private roadways throughout Hickory Grove Village Condominium, snow removal from the roadways, driveways, front walkways and sidewalks within Hickory Grove Village Condominium and for lawn cutting and care of grass and green areas, flower and shrub beds and front landscaped areas, as well as all maintenance, repairs and replacements to any pipes, wires, conduits, water and sewer lines and utility lines which serve two or more Units, shall be made by the Board of Managers. The cost of all such snow removal and property maintenance shall be a common expense.

Section 7.02 Repairs and Maintenance which are the Responsibility of the Unit Owners. All maintenance (including painting and decorating of the Units), repairs and replacements to the Units, both interior and exterior, including the foundations, walls and roofs; and repairs to pipes, wires and conduits which service only one Unit shall be made by the respective Unit Owners at their own expense.

Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 7.01 above but which is occasioned by a negligent or willful act or omission of (a) a Unit Owner, or (b) any family member, employee, agent, guest, tenant, or invitee of such Unit Owner, or (c) a family member, employee, agent, guest or invitee of the tenant of such Unit Owner, or (d) an employee, agent, guest or invitee of (i) any member of such Unit Owner's family or (ii) any family member of the tenant of such Unit Owner; shall be made at the cost and expense of such Unit Owner.

In the event that a Unit Owner fails to make any maintenance or repair to such Owner's Unit or Lot, which maintenance or repair is necessary to protect any of the other Units or Lots, the Board of Managers shall have the right to make such maintenance or repair (after the failure of the Unit Owner to do so, or commence or be diligently continuing to do so, upon ten (10) days' written notice, or written or oral notice of a shorter duration in the event of an emergency situation) and to charge the Unit Owner for the cost of all such repairs and/or maintenance. In the event that the Board of Managers charges a Unit Owner for repairs or maintenance to such Owner's Unit or for repairs to any common element restricted in use to such Unit Owner and which the Unit Owner is obligated to maintain pursuant to these By-Laws or the Declaration, and the Unit Owner fails to make prompt payment, the Board of Managers shall be entitled to bring suit thereon, and, in such event, the Unit Owner failing to make such payment shall be liable for the reasonable attorney's fees and costs of such suit or proceeding together with interest on all sums due.

Section 7.03 Quality of Maintenance and Repairs. All repairs, painting and maintenance, whether made by the Unit Owner or by the Board of Managers, to the Units, doors, windows, decks, garages or the exterior surface of the Units, including the roof, or to any generally visible portion of the foundation, shall be carried out in such a manner so as to conform to the materials, style and color initially provided by

the Sponsor, unless the Board of Managers determines otherwise.

Section 7.04 Restrictions on Use of Units and Common Elements. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

(a) Except for the Sponsor's right to use Units for a sales center, models or for storage as set forth in the Condominium Declaration and as otherwise provided below, the Unit, whether occupied or leased out by the Unit Owner, shall be used for residential purposes only.

(b) No wholesale or retail business, including any salon, studio, laboratory, home industry or medical or dental office, shall be conducted in or on any Lot or other portion of the Property without the consent of the Board of Managers of the Condominium. This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above.

(c) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or occupants or which interferes with the peaceful possession or proper use of the Property by its residents or occupants.

(d) No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property, shall be cured or corrected by and at the sole expense of the Unit Owners or the Board of Managers, as the case may be, responsible for such violation, provided that upon failure of a Unit Owner to cure or correct such violation after ten (10) days' written notice, the Board of Managers may, at such Unit Owner's expense, payable in the same manner as an assessment against such Unit, cure or correct such violation on such Unit Owner's behalf or commence appropriate legal proceedings to enjoin or restrain such violation, as more fully set forth in Section 7.08 hereof.

(e) No Unit may be leased for a term of less than six (6) months.

(f) Each Owner of a Unit shall be permitted to keep pet(s) in his Unit and on the premises. No tenants or lessees shall be permitted to have pets in any Unit without the express written consent of the Unit Owner.

(g) No changes, alterations, additions or modifications to the exterior of the Units or Lots as initially constructed, structural or non-structural, shall be made without the prior written consent of both the Sponsor, so long as Sponsor shall own title to any Lot or Unit, and the Board of Managers of the Condominium or any Architectural Committee thereof.

(h) No fences, walls, swimming pools, storage sheds, playground or swing sets, portable basketball equipment, satellite dishes (except as otherwise permitted by law), outbuildings or other structures of any kind whatsoever shall be placed or erected on any Lot or Unit within Hickory Grove Village Condominium without the prior written consent of both the Sponsor, so long as Sponsor shall own title to any Lot or Unit, and the Board of Managers of the Condominium, after submission and approval of plans therefor.

Section 7.05 Rules of Conduct. Rules and Regulations concerning the use of the Units and the common elements may be promulgated and amended by the Board of Managers. Copies of such Rules and Regulations shall be furnished by the Board to each Unit Owner prior to the time when the same shall become effective.

Section 7.06 Abatement of Violations. The violation of any Rule or Regulation adopted by the Board of Managers, or of any By-Law contained herein, or of any provision of the Declaration, shall give the Board of Managers or its designees, the right, in addition to any other rights set forth in these By-Laws, (a) to enter the Unit in which, or as to which, such violation exists and to summarily abate, remove, repair or alter, at the expense of the Unit Owner, any structure, thing or condition that may exist therein contrary to the provisions of the Declaration, these By-Laws or the Condominium's Rules and Regulations, as the case may be, and the Board of Managers or its designees shall not be deemed thereby guilty in any manner of trespass subject to the laws of New York State; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation; or (c) to establish a penalty in accordance with Section 7.08 below. No Unit Owner shall have the right to enjoin, abate or remedy the continuance of a violation by appropriate legal proceedings at law or in equity until a reasonable time after a written request to the Board of Managers to remedy the matter has been delivered and the Board shall have failed or refused to act thereon.

Section 7.07 Obligation and Lien for Cost of Enforcement. If any action is successfully brought to extinguish a violation of any rule or regulation adopted by the Board of Managers or to successfully enforce the provisions of the Declaration or these By-Laws, the cost of such action, including legal fees, shall become a binding personal obligation of the violator. If such violator is (a) the Unit Owner, or (b) any family member, employee, agent, tenant or guest or invitee of such Unit Owner, or (c) a family member or employee, agent, guest or invitee of the tenant of such Unit Owner, or (d) employee, agent, guest or invitee of (i) any member of such Unit Owner's family, or (ii) any family member of the tenant of such Unit Owner; such cost shall also be a lien upon the Unit of such Owner.

Section 7.08 Penalties and Fines. In addition or as an alternative to an action at law or suit in equity, the Board of Managers may, with respect to any violation of the Declaration or of these By-Laws or any Rules and Regulations of the Condominium or of any committee of the Condominium, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any

other person. Monetary penalties imposed against a Unit Owner or occupant shall be deemed an assessment against the Unit of such Owner and shall constitute a personal obligation of the Unit Owner and shall be collectible in the same manner as annual charges and special assessments under Article V of these By-Laws.

Section 7.09 Owner Responsible for Tenants. Any lease of a Unit shall provide for full compliance by the tenant with the Declaration, By-Laws and Rules and Regulations of the Condominium. Should a tenant be in violation thereof at any time, the Board of Managers of the Condominium may send the Owner of the Unit which said tenant occupies written notice of such violation by certified or registered mail, return receipt requested. If the violation is not cured or eviction proceedings commenced against the tenant within fourteen (14) days after the Owner has received notice of such violation, or if the eviction proceedings are not reasonably diligently pursued thereafter, the Board of Managers may pursue any remedies which it may have under this Article VII.

ARTICLE VIII INSURANCE

Section 8.01 Insurance. The Board of Managers shall obtain and maintain, to the extent determined by the Board in its sole discretion to be reasonably obtainable and appropriate, and in such amounts as the Board shall determine to be appropriate unless otherwise required herein (i) general liability insurance, (ii) directors' and officers' liability insurance, (iii) a fidelity bond/theft insurance, and (iv) umbrella coverage.

The Board of Managers may also maintain such other insurance as it shall deem necessary or desirable from time to time including increased "umbrella" catastrophe coverage.

(a) Liability. The liability insurance shall cover the Board of Managers, the officers of the Condominium and all Unit Owners, for any and all occurrences on the Property owned by the Condominium, being the private roadways, but not the liability of Unit Owners arising from occurrences with such Owner's Unit or within the Lot owned by the Owner of such Unit. The policy shall include the following endorsements: (i) comprehensive general liability, (ii) personal injury, (iii) medical payments, (iv) cross liability, and (v) contractual liability including any liability of the Condominium to indemnify officers and members of the Board of Managers as provided in these By-Laws; and shall include such other provisions as are required pursuant to the Declaration.

Until the first meeting of the Board of Managers following the first annual meeting of the Unit Owners, this public liability insurance shall be in the amount of \$1,000,000 covering claims for bodily injury and property damage and may be thereafter changed by the Board of Managers from time to time as in their judgment may be appropriate.

(b) Directors' and Officers' Liability. The directors' and officers' liability insurance shall cover wrongful acts or omissions of members of the Board of Managers or officers of the Condominium, including cost of defense of suits or proceedings against officers or members of the Board of Managers. The policy shall be on a "claims made" basis.

Until the first meeting of the Board of Managers following the first annual meeting of the Unit Owners, the directors' and officers' liability coverage shall be in the amount of \$500,000.00 unless such coverage is not available at a cost which is, in the Board's judgment, reasonable.

(c) Fidelity Bond. The fidelity bond shall name the Condominium as obligee and shall cover all members of the Board of Managers, officers and employees of the Condominium who handle Association funds. The bond shall be in an amount not less than the estimated maximum amount of funds, including reserves, in the custody of the Condominium or Managing Agent at any given time. It shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression and shall provide that the bond shall not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the Board of Managers.

(d) No Liability for Failure to Obtain Above Coverages. The Board of Managers shall not be liable for failure to obtain any of the coverages required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at a cost determined by the Board to be excessive or unreasonable.

(e) Deductible Amounts. The deductible amount, if any, on any insurance policy purchased by the Board of Managers shall be a common expense, provided, however, that the Board of Managers may assess any deductible amount necessitated by the gross negligence or wantonly malicious act of a Unit Owner against such Unit Owner. The Condominium may pay the deductible portion for which a Unit Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorney's fees) shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as annual charges and assessments as provided in the Declaration.

(f) Insurance Carried by Unit Owners. Unit Owners shall carry their own fire and casualty insurance, and any other types of coverage as may be determined by the Unit Owners in their own discretion.

**ARTICLE IX
SELLING, MORTGAGING AND LEASING UNITS**

Section 9.01 Selling and Leasing Units. Units can be sold or leased, provided that (i) no Unit Owner shall convey, mortgage, pledge, hypothecate, sell or lease his or her Unit unless and until all unpaid common charges and special assessments assessed against his or her Unit shall have been paid to the Board of Managers, and (ii) no Unit may be leased for a term of less than six (6) months. However, such unpaid common charges and special assessments can be paid out of the proceeds of the sale of a Unit or by the Grantee. Any lease of a Unit shall provide for full compliance by the tenants with the Declaration, By-Laws, Rules and Regulations of the Condominium. The Owner shall be responsible for violations by such Owner's tenant and shall be subject to actions by the Board of Managers in accordance with Section 7.09 of these By-Laws.

Section 9.02 Mortgaging of Units and Notice to Board of Managers. Each Unit Owner shall have the right to mortgage his Unit without restriction. A Unit Owner who mortgages his Unit shall so notify the Board of Managers in writing of the name and address of the Mortgagee.

Section 9.03 Gifts and Devises, etc.. Any Unit Owner shall be free to convey or transfer his Unit by gift or to devise his Unit by will, or to pass the same by intestacy without restriction.

**ARTICLE X
AMENDMENT**

Section 10.01 Amendments to By-Laws. Except as hereinafter provided otherwise, these By-Laws may be modified, altered or amended at any duly called meeting of Unit Owners provided that:

- (a) A notice of the meeting containing a full statement of the proposed modification, alteration, or amendment has been sent to all Unit Owners as listed on the books and records of the Condominium and to all mortgagees of Units who have requested the same;
- (b) a majority of the Unit Owners in number and in common interest approve the change;
- (c) The Board of Managers obtains the approval of the eligible mortgage holders who represent at least 51% of the votes of unit estates that are subject to mortgages held by eligible holders; and
- (d) The change is set forth as an amendment to the Declaration and these By-Laws duly recorded in the Erie County Clerk's Office.

Section 2.01, insofar as it provides that the Sponsor, so long as it is the Owner of Units, may cast votes attributable to such Units; Section 2.04, insofar as it provides

that the Sponsor, so long as it is the Owner of Units, shall be entitled to elect specified numbers of members of the Board of Managers; Section 3.02, insofar as it provides that so long as the Sponsor owns at least one (1) Unit, the Board of Managers may not exercise certain powers without the Sponsor's prior written consent, and this Section 10.01, however, may not be amended without the consent in writing of the Sponsor prior to the fifth anniversary of the closing of title to the first Unit if the Sponsor shall continue to be the Owner of one or more Units.

ARTICLE XI MISCELLANEOUS

Section 11.01 Notices. All notices hereunder shall be in writing and sent by mail by depositing same in a post office or letter box in a postpaid sealed wrapper addressed, if to go to the Board of Managers, at the office of the Condominium, and if to go to a Unit Owner or Unit Mortgagee, to the address of such Unit Owner or Mortgagee at such address as appears on the books of the Condominium. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice shall be deemed the equivalent thereof.

Section 11.02 Conflicts; Compliance with Article 9-B. These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of New York. In case any of these By-Laws conflict with the provisions of said statute or of the Declaration, the provisions of the statute or of the Declaration, whichever the case may be, shall control.

Section 11.03 No Waiver for Failure to Enforce. No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 11.04 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision thereof.

Section 11.05 Severability. Should any part of these By-Laws be deemed void or become unenforceable at law or in equity, the validity, enforceability or effect of the balance of these By-Laws shall not be impaired or affected in any manner.