

**Article 3**  
**Board of Directors: Selection, Meetings, Powers**

**A. Composition and Selection.**

**3.1. Governing Body; Qualifications.**

The Board shall govern the Residential Association's affairs. Each director shall have one vote. Except with respect to directors appointed by the Founder Member, directors shall be Owners or residents. However, no Owner and resident representing the same Unit may serve on the Board at the same time. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Residential Community.

If an Owner is not an individual, any officer, director, partner, or any trust officer of such Owner shall be eligible to serve as a director unless a written notice to the Residential Association signed by the Owner specifies otherwise. However, no Owner may have more than one such representative on the Board at a time except in the case of directors that the Founder Member appoints.

**3.2. Number of Directors.**

The Board shall consist of three to seven directors, as provided in Section 3.3.

**3.3. Selection of Directors; Term of Office.**

**(a) Initial Board.** The initial Board shall consist of the three directors identified in the Articles of Incorporation, who shall serve until their successors are appointed or elected as provided in this subsection.

**(b) Directors During Founder Control Period.** Except as otherwise provided in this subsection, the Founder Member may appoint, remove, and replace Board members until termination of the Founder Control Period. During such period, the Voting Delegates shall be entitled to elect a minority of the total number of directors according to the following schedule (directors elected by the Voting Delegates are referred to as "Owner Directors"):

(i) Within 60 days after the time that Owners other than the Founder, Founder Affiliates, or Builders own 25% of the maximum number of Units permitted by applicable zoning for the property described in the Master Plan or whenever the Founder earlier determines, the President shall call for an election by which the Voting Delegates, as a group, shall be entitled to elect one of the three directors, who shall be elected at large (*i.e.*, without regard to Election Districts). The remaining directors shall be appointees of the Founder. The Owner Director, and his or her successors, shall be elected for a term of two years.

(ii) Within 60 days after the time that Owners other than the Founder, Founder Affiliates, or Builders own 50% of the maximum number of Units permitted by the applicable zoning for the property described in the Master Plan or whenever the Founder earlier determines, the Board shall be increased to five directors and the President shall call for an election by which the Voting Delegates, as a group, shall be entitled to elect a second director in addition to the Owner Director then currently serving (*i.e.*, two of the five directors shall be Owner Directors), who shall be elected at large. The Founder shall appoint the re-

maining three directors. The newly-elected Owner Director, and his or her successors, shall be elected for a term of two years.

(iii) Notwithstanding the stated terms of the Owner Directors elected pursuant to this Section 3.3, the Board, in its discretion, may adjust the terms of either or both of the Owner Directors in order to make their terms coincide with elections to be held annual meetings of the Residential Association.

**(c) Directors After the Founder Control Period.**

(i) Not later than termination of the Founder Control Period, the Board shall be increased to seven directors. The President shall call for an election by which the Voting Delegates shall be entitled to elect four directors in addition to the two Owner Directors then currently serving (*i.e.*, six of the seven director shall be Owner Directors), with an equal number of directors elected by the Voting Delegates representing each Election District, if any, and any remaining directorships filled at large by the votes of all Voting Delegates. Two directors of the newly-elected directors shall be elected to serve until the second annual meeting following their election and two of the newly-elected directors shall be elected to serve until the third annual meeting following their election, as such directors determine among themselves. The Owner Directors in place at the time of the election described in this paragraph shall continue to serve for the balance of their terms and, in the Board's discretion, one or both of such Owner Directors may be deemed elected from an Election District, if applicable.

(ii) The Founder shall be entitled to appoint, remove, and replace the seventh director until termination of the Founder Membership, at which time the director appointed by the Founder shall resign. The remaining directors shall be entitled to appoint a successor to fill such vacancy until the next annual meeting, at which time the Voting Delegates, voting at large, shall be entitled to elect a successor who shall be elected for a term of two years.

(iii) Upon expiration of the term of office of each Owner Director, the Voting Delegates entitled to elect such director shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected.

Directors may serve any number of consecutive terms.

The diagram below illustrates the concept of transition of control of the Board during and after the Founder Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS				
Initial Board	25% of Total Units Conveyed	50% of Total Units Conveyed	Termination of Founder Control Period	Termination of Founder Membership
Founder	Owner	Owner	Owner	Owner
Founder	Founder	Owner	Owner	Owner
Founder	Founder	Founder	Owner	Owner
		Founder	Owner	Owner
		Founder	Owner	Owner
			Owner	Owner
			Founder	Owner

### **3.4. Nomination and Election Procedures.**

**(a) *Nomination of Candidates.*** At least 30 days prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which every eligible person who has an interest in serving as a director may file as a candidate for any position to be filled by a vote of the Owners.

The Board also may appoint a Nominating Committee to make nominations for election to the Board. The Nominating Committee, if any, shall consist of at least three Persons, including a chairman, who shall be a Board member, and two or more Owners or representatives of Owners.

In preparation for each election, the Nominating Committee, if created, shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Owners at such election. The Nominating Committee shall nominate separate slates for the directors to be elected at-large or those to be elected from Election Districts. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Nominations shall also be permitted from the floor at the meeting at which any election is held. All candidates shall have a reasonable opportunity to communicate their qualifications to the Owners and to solicit votes.

**(b) *Election Procedures.*** At each election, voting shall be by written ballot cast by mail, facsimile transmission, electronic mail, or at a meeting, as the Board determines, or by any other method permitted by Virginia law. Each Owner may cast all votes assigned to his or her Unit for each position to be filled from any slate of candidates on which such Owner is entitled to vote. Under no circumstances shall cumulative voting be permitted in any election of directors.

In the event of a tie vote on any slate, the Owners entitled to vote on such slate shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the Board shall call for election of the director(s) from such slate by the Owners represented by such Owners. Such election shall be held by mail, with ballots to be sent by first class mail to each Owner entitled to vote on such slate within 10 days after the meeting at which the original election was held.

### **3.5. Removal of Directors and Vacancies.**

Any Owner Director may be removed, with or without cause, by the vote of Voting Delegates holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Voting Delegates, the Voting Delegates entitled to elect the removed director shall elect a successor for the remainder of the term of such director.

At any meeting at which a quorum is present, a majority of the directors may remove any Owner Director who: (a) has three consecutive unexcused absences from Board meetings; (b) is more than 30 days delinquent (or resides in a Unit owned by an Owner who is so delinquent) in the payment of any assessment or other charge due the Residential Association; or (c) fails to cure a violation of the Governing Documents pertaining to the Unit he or she represents after being given notice from the Board or its designee and a rea-

sonable opportunity to cure such violation. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates entitled to fill such directorship shall elect a successor for the remainder of the term.

Any director whom the Board appoints shall be selected from among eligible Owners or residents of Units within the Election District represented by the director who vacated the position.

This Section shall not apply to directors the Founder appoints. The Founder may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Founder.

## **B. Meetings.**

### **3.6. Organizational Meetings.**

The Board shall hold an organizational meeting within 30 days following each annual membership meeting at such time and place as the Board shall fix for the purpose of electing officers and providing for such other organizational functions as deemed appropriate.

### **3.7. Regular Meetings.**

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

### **3.8. Special Meetings.**

The President, Vice President, or any two directors may call a special meeting of the Board.

### **3.9. Notice; Waiver of Notice.**

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall notify each director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) overnight delivery service (*e.g.*, FedEx), with proof of receipt; (iv) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (v) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission.

(b) All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Residential Association's records. The Board shall deposit notices sent by first class mail into a United States mailbox at least five business days before the day of the meeting. The Board shall give notices by personal or overnight delivery, telephone, or other electronic device at least 72 hours before the time set for the meeting.

(c) Notice given by electronic transmission shall be deemed given: (i) if by fax, when directed to a number at which the director has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the director has consented to receive notice; (iii) if by posting on an electronic network together with separate notice to the director of such specific posting when such notice is directed to an address at which the director has consented to receive notice, upon the later of such posting or the giving of such separate notice; and (iv) if by any other form of electronic transmission, when consented to by the director.

(d) The Board shall give reasonable notice to the Members of the date, time, and place of Board meetings by announcing such information at a previous Board or membership meeting, if practical, and by publishing or posting notice in a manner or location which the Board shall designate where it is reasonably calculated to be available to a majority of the Members. In addition, notice of Board meetings shall be sent by first class mail or electronic transmission to any Member so requesting. At least one copy of any agenda packet furnished to Board members shall be made available at the same time for inspection by the Members.

(e) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if: (i) a quorum is present; and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

### **3.10. Telephonic Participation in Meetings.**

Members of the Board or any committee the Board designates may participate in a Board or committee meeting by conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

### **3.11. Quorum of Board.**

At all Board meetings, a majority of the directors eligible to vote shall constitute a quorum for the transaction of business, and the votes of a majority of such directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless Virginia law, these By-Laws, or the Charter specifically provide otherwise.

A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present and eligible to vote may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

### **3.12. Conduct of Meetings.**

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions

occurring at such meetings are included in the Residential Association's records. Except as otherwise provided in Section 9.4(b), the minutes shall be made available for inspection by Members within 60 days after the meeting, or when distributed to Board members with the agenda for the next Board meeting, whichever is earlier.

### **3.13. Open Meetings; Executive Session.**

(a) Subject to the provisions of subsection 3.13(b) and Section 3.14, all Board meetings shall be open to attendance by all Members or their representatives. The Board shall set aside a period of time during each meeting to allow Members an opportunity to comment on matters relating to the Residential Association, which matters may be limited to items on the agenda for any meeting with a limited agenda. The Board may adopt reasonable rules for such comment period, including limits on the time that any individual may speak and rules requiring Members who wish to speak to register prior to the meeting. Other than during such comment period, only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, upon a motion to convene in executive session specifically stating the purpose thereof approved by majority vote of the directors eligible to vote at any open meeting, the President may adjourn any Board meeting and reconvene in executive session for such purpose only, and may restrict attendance to directors and such other persons as the Board may specifically invite and announce during the open portion of the Board meeting. Such purposes may include discussion of personnel matters, pending or probable litigation, violations of the Governing Documents, or personal liability of a Member, and such other matters as may be permitted by Virginia law. No contract, motion, or other action taken in executive session shall become effective unless the Board reconvenes in an open meeting to vote on such contract, motion, or other action, the substantive of which shall be reasonably identified in the open meeting. Nothing in this subsection (b) shall require the disclosure of information in violation of law.

### **3.14. Action Without a Formal Meeting.**

Any action to be taken or which may be taken at a Board meeting may be taken without a meeting if a written consent setting forth the action so taken is signed by the number of directors with voting rights that would be required to approve the same action at a Board meeting at which all of the directors were present. Such consent shall have the same force and effect as a vote at a meeting. The Board shall promptly notify all directors of any action so approved and the effective date of such action and provide each director with a copy of the signed written consent.

## **C. Powers and Duties.**

### **3.15. Powers.**

The Board shall have the power to administer the Residential Association's affairs, perform the Residential Association's responsibilities, and exercise the Residential Association's rights as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done on the Residential Association's behalf all acts and things except those which the Governing Documents or Virginia law require to be done and exercised exclusively by the Owners, Voting Delegates, or the membership generally.

### 3.16. Duties.

The Board's duties shall include, without limitation:

- (a) preparing and adopting, in accordance with the Charter, an annual budget establishing each Owner's share of the Common Expenses and any Service Area Expenses;
- (b) levying and collecting assessments from the Owners and other Persons responsible for paying shared expenses pursuant to any agreement or recorded covenant;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;
- (d) designating, hiring, and dismissing personnel necessary to carry out the Residential Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) opening bank accounts on the Residential Association's behalf and designating the signatories required;
- (f) depositing all funds received on the Residential Association's behalf in a bank depository which it shall approve and using such funds to operate the Residential Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;
- (h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Residential Association; however, the Residential Association's obligation in this regard shall be conditioned in the manner provided in the Charter;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Residential Association;
- (k) keeping a detailed accounting of the Residential Association's receipts and expenditures;
- (l) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Residential Association as provided in Section 9.4;
- (m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Residential Association to the extent such indemnity is required by Virginia law, the Articles or these By-Laws;
- (n) performing the duties of the Residential Association under the Covenant to Share Costs; and

(o) performing the duties of the Residential Association under the Virginia Property Owners Association Act, Va. Code §55-508, *et seq.*

### **3.17. Conflicts of Interest.**

Unless otherwise approved by a majority of the other directors, no Owner Director may transact business with the Residential Association or any Residential Association contractor during his or her term as director or within two years after the term expires. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the directors relative to his or her performance as a director. A director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members.

Notwithstanding the above, directors appointed by the Founder may be employed by or otherwise transact business with the Founder or its affiliate, and the Founder may transact business with the Residential Association or its contractors.

## **Article 4 Officers**

### **4.1. Officers.**

The Residential Association's officers shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Vice Presidents, Assistant Secretaries, and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary. Officers who are not directors shall not be entitled to vote on Board matters.

### **4.2. Election and Term of Office.**

The Board shall elect the Residential Association's officers at the first Board meeting following each annual meeting of the membership, to serve until their successors are elected.

### **4.3. Removal and Vacancies.**

The Board may remove any officer whenever in its judgment the Residential Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

### **4.4. Powers and Duties.**

The Residential Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose as long as such duties are not inconsistent with these By-Laws.

**(a) President.** The President shall be the Residential Association's chief executive officer. The President (i) presides at all meetings of the Residential Association and of the Board; (ii) has all the general

powers and duties which are usually vested in the office of President of a corporation organized under the laws of the Commonwealth of Virginia; (iii) has general supervision, direction, and control of the business of the Residential Association, subject to the control of the Board; and (iv) sees that all orders and resolutions of the Board are carried into effect.

**(b) Secretary.** The Secretary (i) keeps the minutes of all meetings of the Board and of the Residential Association; (ii) has charge of such books, papers, and records as the Board may direct; (iii) maintains a record of the names and addresses of the Owners for the mailing of notices; and (iv) in general, performs all duties incident to the office of secretary.

**(c) Treasurer.** The Treasurer shall have primary responsibility for preparing the Residential Association's budgets as provided for in the Charter, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

#### **4.5. Resignation.**

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

## **Article 5 Committees**

### **5.1. General.**

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

### **5.2. Covenants Committee.**

In addition to any other committees that the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three but no more than seven Owners. Acting in accordance with the provisions of the Charter, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Residential Association and shall conduct all hearings held pursuant to Article 8 of these By-Laws. The Covenants Committee shall have no responsibility for seeking out violations of the Governing Documents.

### **5.3. Service Area Committees.**

The Owners within any Service Area which has no formal organizational structure or association may elect a Service Area Committee to determine the nature and extent of services, if any, which it desires to have the Residential Association provide to the Service Area, over and above those services which the Residential Association provides to all Units in the Residential Community.

A Service Area Committee, if elected, shall consist of at least three but no more than five representatives of the property within the Service Area.