

PHEASANT RUN HOMEOWNERS ASSOCIATION, INC.

BY-LAWS



PHEASANT RUN HOMEOWNERS ASSOCIATION

BY-LAWS

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ARTICLE 1 - NATURE OF BY-LAWS

Section 1.1 - PURPOSE

These By-laws are intended to govern the administration of PHEASANT RUN HOMEOWNER'S ASSOCIATION, a non-profit membership corporation organized under Title 15A of the Revised Statutes of New Jersey, hereinafter referred to as the "Association", and all members together with management, administration, utilization and maintenance of the property as described in the Declaration and any Community Guidelines derived therefrom.

Section 1.2 - FISCAL YEAR

The fiscal year of the corporation shall be from January 1st through December 31st of each year.

Section 1.3 - PRINCIPAL OFFICE

The office of the Corporation shall be located at 45 Canterbury Drive, Forked River, N.J. 08731.

ARTICLE 2 - MEMBERSHIP AND VOTING RIGHTS

Section 2.1 - MEMBERSHIP

Every owner of a lot shall be a "Member" of the Association as provided in the Articles of Incorporation and subject to the provisions of these by-laws and any rules and regulations promulgated by the Trustees.

] The definition of "member" shall also include an owner who has conveyed all right, title, and interest in his/her property to a relative, trust, foundation, or charitable organization with the exception of the retaining of a life estate/tenancy in the property, for a nominal consideration. This conveyance is for estate planning purposes. Under these circumstances, the Grantor (former owner) will be considered the "member" for the purposes of voting and participating in Association social and other activities. The Grantee will have, under those circumstances, no voting rights, nor any rights to participate in any Association functions or activities. The deed of conveyance, under those circumstances, must be reviewed and pre-approved by the attorney for the Association, at a fee to the Grantor, which will not exceed \$100.00. Membership in the Association shall lapse and terminate when any member shall cease to be record owner of a lot except as provided above.

Section 2.2 - VOTING RIGHTS

There shall be 434 votes in the Association, each of equal weight. Each lot shall be entitled to only one vote without regard to the number of owners of each lot.

Section 2.3 - SUSPENSION OF RIGHTS

The Membership rights of any member (including, but not limited to the right to vote), may be suspended by action of the Board during the period when the Lot Owner's assessment(s) remain unpaid; but upon payment of such assessment(s), such rights and

privileges shall be automatically restored. If the Board has adopted and published rules and regulations governing the use of the Common Property and the conduct of persons thereon, the Board may, at its discretion, suspend the rights and privileges of any person for violation of any of those rules and regulations for a period not to exceed thirty (30) days for any single violation, but if the violation is of a continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is corrected. No such action shall be taken by the Board until the Lot Owner has had the opportunity for a hearing consistent with the provisions of due process of law.

Section 2.4 - PROXIES

Proxy ballots shall be permitted with respect to all elections of Trustees and all amendments to the Articles of Incorporation, the Declarations, these By-laws, or any other matter to come before a meeting of the membership of the Association. All proxies shall be in writing in a form supplied by the Association, signed by the individual member (or in the case of joint owners, by any one of them) or by his or their duly authorized legal representative(s) [7] and delivered to the Secretary of the Association, or such other person as the President may designate, at least 24 hours prior to the commencement of the meeting or election at which ballots are to be cast. Proxies may be revoked at any time prior to the opening of the polls and no proxy shall be voted after eleven (11) months from the date of its execution.

Section 2.5 - ABSENTEE BALLOTS

Absentee ballots shall be permitted with respect to all elections of trustees and all amendments to the Articles of Incorporation, the Declaration, these By-laws or any other matter to come before the meeting of the membership of the Association. All absentee ballots shall be in writing, unsigned, on a form provided by the Board and placed in an envelope with the name and address of the member on the exterior. Absentee ballots shall be delivered in person or by mail, to the Secretary of the Association, or to such other person as the President may delegate prior to the commencement of the meeting or election at which the ballots are to be cast.

Section 2.6 - INTEREST IN THE COMMON PROPERTY

Each Lot Owner shall have a membership interest in the Association equal to the number of lots owned. Such interest shall be appurtenant to, and indivisible from, ownership of his lot(s). Each Lot Owner who is entitled to membership in the Association pursuant to these By-laws shall be privileged to use and enjoy the Common Property subject to the right of the Association to establish rules and regulations governing such use and enjoyment, and subject further to the provisions of the By-laws, Declarations and the Community Guidelines derived therefrom.

ARTICLE 3 - MEETINGS OF MEMBERS

Section 3.1 - PLACE OF MEETING

All meetings of the members of the Association shall be held at the principal office of the Association, or at such other suitable place convenient to the members as may be designated by the Board.

Section 3.2 - REGULAR ANNUAL MEETING

The regular annual meeting of the members of the Association shall be held during April of each year.

Section 3.3 - MEMBERSHIP MEETINGS

One general Association membership meeting shall be scheduled by the Board of Trustees every month.

Section 3.4 - SPECIAL MEMBERSHIP MEETINGS

Special meetings of the members may be called by the President of the Board whenever deemed to be advisable, or shall be called by the Secretary when so ordered by a majority of the trustees or upon the written request of members representing not less than twenty five per cent (25%) of all votes entitled to be cast at such meeting. Such request shall state the purpose(s) of such meeting and the matter(s) to be acted upon. Unless Members representing a majority of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at a meeting of the members held during the preceding twelve (12) months.

Section 3.5 Open Board Meetings: Notice: Minutes

Section 3.5.1 Open Meetings

Notwithstanding anything to the contrary contained herein, all meetings of the Board of Trustees shall be open to attendance by all Owners.

The Board of Trustees may exclude or restrict attendance at those meetings of the Board of Trustees dealing with the following:

(a) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;

(b) Any pending or anticipated litigation or contract negotiations;

(c) Any matter falling within the attorney-client privilege to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; or

(d) Any matter involving the employment, promotion, discipline, or dismissal of a specific employee of the Association.

Section 3.5.2 Notice:

Adequate notice of any open meeting shall be given to all Owners unless otherwise specified by applicable law, adequate notice shall mean written advance notice of at least forty-eight (48) hours giving the date, time, location and to the extent known, the agenda of any regular, special, or rescheduled meeting. Such notice shall accurately state whether formal action may or may not be taken. The notice shall be:

(a) Mailed to all Owners; and

(b) Filed with the Association's Secretary or administrative officer or agent responsible for administering the Association's business office.

Section 3.5.2 Emergency Meetings:

In the event that a meeting of the Board of Trustees of the Association is required to deal

with such matters of urgency and importance that delay, for the purpose of providing forty-eight (48) hours advance notice, would result in substantial harm to the interests of the Association, the notice shall be deemed adequate if it is provided as soon as possible following the calling of the meeting.

Section 3.5.4 Minutes At Open Meeting:

The Board of Trustees shall keep reasonably comprehensive minutes of the proceedings at each of its meetings required to be open to Owners. Such minutes shall reflect the time and place of the meeting, the Trustees present, the subjects considered, the actions taken, the vote of the Trustees and any other information required by the Association's governing documents and/or applicable law. Such minutes shall be made available to all Owners within not more than thirty (30) calendar days after the date of the meeting at which same were taken: provided, however, copies of such minutes shall be made available to all Owners before the next meeting of the Board of Trustees that is required to be open to all Owners.

Section 3.6 QUORUM AND ADJOURNED MEETINGS

A quorum for the transaction of business, except as otherwise provided by law, shall be deemed to mean the presence, whether by person, proxy or absentee ballot of members in good standing representing at least twenty five per cent (25%) of all the votes of the Association. In the absence of a quorum, the person holding the votes, present and entitled to vote, by majority vote of those present, may reconvene the meeting from time to time, until a quorum shall be present or represented. At such reconvened meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally called.

Section 3.7 - ORGANIZATION

At each meeting of the Association, the President of the Board, or in his absence, the Vice President, or in the absence of both of them, a chairperson chosen by a majority vote of the members present or represented by proxy and entitled to vote thereat, shall act as a chairperson, and the Secretary, or in his absence a person whom the chairperson shall appoint, shall act as Secretary of the meeting.

Section 3.8 - VOTING

Except as otherwise required by the Articles of Incorporation, the Declaration or any law, a quorum being present, a majority of votes in person, by proxy, or by absentee ballot shall be sufficient on those matters which are to be voted on by the members. The election of Trustees shall be by ballot (the vote on any other question need not be by ballot). Only members in good standing shall be entitled to vote.

Section 3.9 - MEMBERS IN GOOD STANDING

A member shall be deemed to be in good standing and entitled to vote at any meeting of the Association if, and only if, he has fully paid all installments then due and owing for assessments made against said member's lot by the Trustees, as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, at least three (3) days prior to the date fixed for such meeting.

Section 3.10 - JUDGES

If at any meeting of the members a vote by ballot shall be taken on any question, the chairperson of such meeting shall appoint two or more judges to act with respect to such vote. Each judge so appointed shall execute the duties of a judge at the meeting or election with strict impartiality and according to the best of his ability. Such judges shall decide upon qualifications of voters and report the number of votes represented at the meeting and entitled to vote on such question, and shall conduct and accept the votes for and against the question. Reports of the judges shall be in writing and subscribed and delivered by them to the Secretary of the meeting. The judges shall be members of the Association. Trustees or their relatives] may not so serve.

Section 3.11 - ORDER OF BUSINESS

The order of business at the annual meeting of the members or at any special meeting shall be:

- (a) Calling of the roll of the Board of Trustees and certifying proxies;
- (b) Present the Proof of Notice of meeting and/or waiver of notice;
- (c) Reading and disposal of any unapproved minutes;
- (d) Receiving reports of officers;
- (e) Receiving reports of committees;
- (f) Unfinished business;
- (g) New business;
- (h) Comments from members;
- (i) Adjournment.

ARTICLE 4 - BOARD OF TRUSTEES

Section 4.1 - EXPRESS AND IMPLIED POWERS AND DUTIES: DELEGATION THEREOF:

The property, affairs and business of the Association shall be managed by the Board of Trustees which shall have all those powers granted to it by the Articles of Incorporation, these By-laws, the Declarations and by law. All of these powers and duties are irrevocably delegated to the Board of Trustees of the PHEASANT RUN HOMEOWNERS ASSOCIATION except as may otherwise be expressly provided to the contrary.

Section 4.2 - NUMBER AND QUALIFICATIONS

The Board shall consist of seven (7) persons who shall be elected by the members from among those members in good standing at the time of the election. All seven (7) members the Board of Trustees shall, at all times, be members of the PHEASANT RUN HOMEOWNERS ASSOCIATION, Forked River, New Jersey. No two (2) members may be related either by blood or marriage, nor from the same household.

Section 4.3 - ELECTION AND TERM OF OFFICE

During September, members of the Board shall be elected by the members of the Association. All Trustees shall be elected for a three (3) year term, it being the intention of the Association that seven (7) Trustees serve, all of whom shall hold office until their respective successors have been duly elected, or until removed in the manner elsewhere provided herein. At any vote for membership on the Board, each member shall vote in accordance with Section 3.8 of Article 3..

Section 4.4 - REMOVAL OF MEMBERS OF THE BOARD

At any duly held regular or special meeting of the members of the Association at which a quorum is present, any one or more Trustees may be removed with cause by a two-thirds (2/3) vote of those present. Any Trustee whose removal has been proposed shall be given an opportunity to be heard at the meeting. Within thirty (30) days of the removal of a Trustee as above, the Board shall prepare a list of candidates willing to replace the removed Trustee. The list shall be presented to the Association membership seven (7) days prior to a Special Meeting, which shall be held not later than sixty (60) days after the date of the removal action. A quorum being present at this Special Meeting, the choice of a successor will be made by a vote of a majority of the members present in person or voting by proxy or absentee ballot. The successor shall serve for the balance of the term of the removed Trustee.

Section 4.5 - VACANCIES

Vacancies on the Board caused by any reason other than the removal of one or more Trustees by a vote of the members of the Association, shall be filled by a vote in person, by absentee ballot or by proxy of a majority of the remaining Trustees at a special meeting of the Board held for that purpose within thirty (30) days after such vacancy occurs. Each person so elected to fill a vacancy shall serve as a Trustee until the next general election of Trustees by the Association membership.

In the event that there are less than four (4) Trustees voting at such a special Board meeting, an election shall be held by the general membership of the Association to fill the vacancy(ies). Each person so elected to fill a vacancy shall serve as a Trustee for the balance of the term of the Trustee(s) whose vacancy(ies) is being filled.

Section 4.6 - MEETINGS OF THE BOARD: WAIVER OF NOTICE

Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Trustees, but at least one (1) meeting per month shall be held. Special meetings of the Board may be called by any Trustee on three (3) business days notice to each Trustee, which notice shall state the time, place and purpose of the meeting. Any Trustee may, at any time, waive notice of meetings of the Board in writing and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by Trustees at any meeting of the Board shall constitute a waiver of notice by them of the time and place thereof. If all the Trustees are present at any meeting of the Board, no notice shall have been required, and any business may be transacted at such meeting.

Section 4.7 - QUORUM AND ADJOURNED MEETINGS

At all meetings of the Board, a majority of Trustees shall constitute a quorum for the transaction of business and the votes of a majority of the Trustees present and voting at such a meeting at which a quorum is present shall constitute a valid decision. If, at any meeting of the Board, there shall be less than a quorum present, the majority of those present shall adjourn the meeting to a new date. At any such reconvened meeting at which a quorum is present, any business which may have been transacted at the original meeting may be transacted without further notice.

Section 4.8 - CONSENT IN LIEU OF MEETING AND VOTE

Anything to the contrary in these by-laws, the Articles of Incorporation, or the Declaration notwithstanding, the entire Board shall have the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote, if all the Trustees shall consent to such action.

ARTICLE 5 - POWERS AND DUTIES OF BOARD OF TRUSTEES

Section 5.1 - GENERAL POWERS AND PRIVILEGES

The Board shall have the following powers in addition to all powers provided for by law unless such powers are otherwise limited pursuant to the Declaration or these Bylaws:

Section 5.1.1 To employ, by contract or otherwise, a manager, managing agent or an independent contractor to oversee, supervise and carry out the responsibilities of the Board. Said manager or said independent contractor shall be compensated upon such terms as Board deems necessary and proper

Section 5.1.2 To employ any person, firm or corporation to repair, maintain and renovate all property owned, maintained, and/or operated by the Association; to seed, sod, plant, transplant, prune, fertilize, water, cut, destroy, pull plants up and/or out, spray substances, put pesticides or other chemical or biological agents in, under or about the water or grounds, grass, trees, streams, and waterways, including the right to dam or alter the flow of said waterways on the Association lands; to build, erect, repair, maintain and renovate recreation facilities, roads, parkways, walkways or paths; lay pipes, culverts; to bury utilities; to put up lights and poles; to erect signs and traffic and safety controls of various sorts, and

Section 5.1.3 To employ professional counsel and to obtain advice from persons, firms, or corporations including but not limited to landscape architects, recreation experts, architects, planners, biologists, lawyers, and accountants.

Section 5.1.4 To employ or contract for water, sewer, electricity and gas or other forms of utility, cable, or master antenna television, painting, building, repairing, renovating, remodeling; and

Section 5.1.5 To adopt, amend, and modify the rules and regulations governing the details of the operation and use of the Common Elements; and

Section 5.1.6 To maintain business like relations with members or occupants whose service requests shall be received, considered, and records kept in systematic fashion, in order to show the action taken with respect to each. As part of a continuing program, secure full performance by such members or occupants of all such items and maintenance for which they are responsible; and

Section 5.1.7 To authorize the President and Secretary to execute any documents which may be necessary to borrow and/or repay monies, and to give notes, mortgages, or other security upon whatever terms it deems necessary and/or appropriate, for any action which has been previously approved by the Association.

Section 5.1.8 With regard to the Common Elements, establish and enforce rules and regulations for parking by, and the assignment of parking spaces to Members, subject to the provisions of the Declaration, Articles of Incorporation and these By-laws; and

Section 5.1.9 To arrange for security protection as necessary; and

Section 5.1.10 To enforce obligations of the members and to do anything and everything necessary and proper for the sound management of the residences, including the right to bring lawsuits and to enforce the terms, conditions and restrictions contained in the Declaration, these By-laws and any rules and regulations governing the Property and/or landowners. Collection of fines may be enforced against any member (s) involved as if the fine were a Common Expense owed by the particular member(s) and such fines shall constitute a lien upon the particular member's lot. Before any fine is imposed by the Board, the member shall have been given notice and afforded an opportunity to be heard with respect to the alleged violation in a manner consistent with the principles of due process of law.

Section 5.1.11 To invest and reinvest monies, institute suit, collect interest, dividends, and capital gains, exercise rights; pay taxes; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and all other powers contained herein, and those necessary, and

Section 5.1.12 To grant and obtain easements, licenses and other property rights with respect to contiguous lands and lands included within the community known as PHEASANT RUN HOMEOWNERS ASSOCIATION; and

Section 5.1.13 To purchase or lease, or otherwise acquire property in the name of the Association or its designees, corporate or other wise, on behalf of all members; and

Section 5.1.14 To sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with dwellings acquired by and sublease such dwellings leased by the Association or its designees, on behalf of all members; and

Section 5.1.15 To appoint an Insurance Trustee, who shall not be a member of the Association who shall discharge his duties in accordance with these By-laws. In the absence of such an appointment, the Board shall be responsible for all insurance matters; and

Section 5.1.16 Appoint members to create and to disband such committees as shall from time to time be deemed appropriate or necessary to aid the Board in the discharge of its duties, functions and powers.

Section 5.2 - DUTIES AND RESPONSIBILITIES

It shall be the affirmative and perpetual obligation and duty of the Board to perform the following:

Section 5.2.1 To cause the Common Property, including the lawn areas to be maintained according to accepted standards, and as set forth in the Declaration and these Bylaws, including, but not limited to, such maintenance, painting, replacement, clearing of snow adjacent to the clubhouse area as deemed appropriate by the Board, and maintenance of retention basins and all water drainage systems; and repair and maintenance of roadways which have not been dedicated to the Township of Lacey; and

Section 5.2.2 To investigate, hire, pay, supervise and discharge the personnel and/or contractor(s) necessary to be employed and provide the equipment and materials necessary, in order to properly maintain and operate the Property as contemplated by the Declarations and these By-laws. Compensation for the services of such employees and/or contractors (as

evidenced by invoices or payroll) shall be considered an operating expense of the Association and Certificates of Insurance shall be required from contractors showing the public liability and workers compensation insurance carried; and **Section 5.2.3** Keep a complete record of all of its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting when requested to in writing at least twenty one (21) days in advance by members entitled to cast at least twenty five percent (25%) of the total votes of the Association; and

Section 5.2.4 To make repairs, additions, improvements to, or restoration of the Property in accordance with the provisions of these By-laws and the Declaration after damage or destruction by fire and other casualty, or as a result of condemnation or eminent domain proceedings; and

Section 5.2.5 To take such action as may be necessary to comply with all orders or requirements, which orders and/or requirements shall be attended to promptly, affecting the premises maintained by the Association placed thereon by any municipal, county, state or federal authority having jurisdiction thereover and by order of the Board of Fire Underwriters or other similar bodies; and

Section 5.2.6 To comply with and maintain such property systems as may be the subject of any Maintenance Agreement previously entered into, or to be entered into in the future between the Association and the Township of Lacey, and to cooperate fully with officials and authorities having jurisdiction with regard to such Agreement(s). The obligation of the Board with respect to such Maintenance Agreement shall include, but not be limited to, the obligation to assess and collect from individual members such additional assessments as may be required at any time so as to enforce and uphold the Association's obligation and duties under any such Maintenance Agreement; and:

Section 5.2.7 To manage the fiscal affairs of the Association as hereinafter provided in Article 6

Section 5.2.8 To place and keep in force all insurance coverages required by the Association for itself and its members, applicable to its property and the operation of the Association, including but not limited to:

Section 5.2.9 Physical Damage Insurance. - Broad Form property insurance on "All Risk" basis including "Replacement Cost Coverage" covering all improvements existing on the Common Property, together with all service machinery, furniture, fixtures or equipment appurtenant thereto, and covering the interest of the Association, the Board, and members as their interests may appear, in an amount equal to the full replacement cost of such improvements without deduction for depreciation.

Section 5.2.10 Coverage shall also be obtained covering loss by theft of Common Property and Fidelity (Bond) coverage on employee(s), trustees, officers and/or members in an amount not less than \$100,000. A suitable deductible may be considered by the Board of Trustees applicable to the physical damage, theft and/or fidelity coverages.

Section 5.2.11 Prior to obtaining a policy of property insurance or any renewal thereof, the Board shall obtain an appraisal of the full replacement cost of the Common Property and the improvements located thereon from a qualified appraiser, for the purpose of determining the amount of insurance to be carried pursuant to this section. This appraisal and the amounts of insurance shall be updated at least every second year.

Section 5.2.12 Public Liability Insurance for injury, death, and for damage to property resulting from occurrences upon or within the Common Grounds or from activities of the Association, shall be purchased by the Board. Coverage shall be on an occurrence basis and shall include Personal Injury coverages. This insurance shall have limits of liability of not less than \$500,000 per person, \$1,000,000 per occurrence for bodily and personal injury, and \$100,000 for property damage. This liability insurance shall cover the Association, the Board, each member of the Board individually, the managing agent and/or the manager (if any), and each member of the Association, and shall include cross liability coverage for liability claims of one insured against another. The Board shall review the liability limits and coverages once a year and decided whether or not these limits should be changed.

Section 5.2.13 Trustees and Officers Liability Insurance. The Board will obtain liability insurance coverage covering the Trustees and the Officers of the Association for liability, including expense of defense, for errors and omissions, and all civil damages occurring in connection with the performance their duties, in an amount of not less than \$1,000,000 with a deductible amount at the discretion of the Board.

Section 5.2.14 Workers Compensation Insurance as required by law, with an Employer's Liability Limit of not less than \$100,000.

Section 5.2.15 Automobile Insurance. Automobile insurance for all vehicles owned by the Association, and Non-Owned Automobile Insurance Coverage for vehicles owned by others used on Association business. The limits of liability for these coverages shall be not less than that provided for under the public liability insurance described in 5.2.12 above. Fire, theft, and collision coverages with suitable deductibles shall be considered on any automobile owned by the Association.

Section 5.2.16 An "Umbrella" or "Catastrophe" liability insurance policy providing coverage over over and above the underlying liability policies with a limit of not less than \$2,000,000 and a deductible of not over \$1,000.

Section 5.2.17 Other insurance. Such other insurance as the Board may determine to be necessary or desirable. All policies shall: (a) provide that the adjustment of property losses shall be made with the Board of Trustees and the net payable to the Board of Trustees; (b) require that the proceeds of physical damage insurance be applied to the restoration of such Common Elements and structural portions, furniture, equipment and service machinery as is required by the Declaration and these By-laws; (c) to the extent obtainable, policies shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured and; (d).provide that such policies may not be non-renewed or canceled without at least thirty (30) days prior written notice to all of the insureds and interested parties.

ARTICLE 6 - FISCAL MANAGEMENT

Section 6.1 - MANAGEMENT

The Board of Trustees shall have the responsibility and duty to control and manage the fiscal affairs of the Association.

Section 6.2 - COMMON RECEIPTS

The Board shall have the duty to collect from each member, his, her, or their heirs, administrators, successors, and assigns, as "Common Receipts", a proportionate part of the

Common Expenses assessed against such member as provided in the Declaration, the Articles of Incorporation, these By-laws and in accordance with applicable law. The Board shall have the further responsibility to provide, upon request, to each Member, an itemized statement of the assessment.

Section 6.3 DETERMINATION OF COMMON EXPENSES & ADOPTION OF OPERATING BUDGET

The amount of monies for Common Expenses deemed necessary by the Board and the manner of expenditure thereof, including but not limited to, the allocation thereof, shall be a matter for the sole discretion of the Board.

Notwithstanding anything to the contrary, the Board shall provide for any and all Common Expenses to be incurred during the year as well as adequate reserves for repairs and replacement of Common Elements and facilities as set forth in Sections 6.6.2 and 6.6.3 of this Article.

Section 6.4 - DISBURSEMENTS

The Board shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Declaration, Articles of Incorporation, and applicable law.

Section 6.5 - DEPOSITORIES

The depository of the Association shall be such financial institution or financial institutions as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such parties as are authorized by the Board, provided that a management agreement may include among its provisions authority for the manager to sign checks on behalf of the Association for payment of the obligations of the Association if the proper fidelity bond is furnished to the Association.

Section 6.6 - ACCOUNTS

The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be Common Expenses:

Section 6.6.1 CURRENT EXPENSES. These shall include all receipts and expenditures within the year for which the budget is made, including a reasonable allowance for contingencies and working funds. Credits to this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year, or may be distributed to the Membership as the Trustees shall determine, or at the discretion of the Trustees, held in the Association's account, pursuant to Section 6.7 of this Article.

Section 6.6.2 RESERVE FOR DEFERRED MAINTENANCE. This shall include funds for maintenance items that occur less frequently than annually.

Section 6.6.3 RESERVES FOR REPLACEMENT. This shall include funds for repair or replacement of Common Elements or other facilities of the Association required because of

damage, depreciation, obsolescence and shall be allocated among each of the separate categories of replacement items.

Section 6.6.4 RESERVES FOR CAPITAL IMPROVEMENTS. These shall include the funds to be used for capital expenditures for additional improvement or additional personal property that will be part of the Common Elements.

Section 6.6.5 OPERATIONS. This shall include any gross revenue from the use of the Common Elements or from other sources. Only the additional direct revenue from any operation or otherwise shall be used to reduce the assessments for current expenses for the year during the one in which the surplus is realized, or at the discretion of the Board, in the year following the one in which the surplus is realized. Losses from operations or otherwise shall be met by special assessments against members, which assessments may be made in advance in order to produce a working fund.

Section 6.7 - RESERVES

The Board shall not be obligated to expend all the of the revenues collected in any accounting period, and must maintain reasonable reserves for repairs, replacements, emergencies, contingencies of bad weather or uncollected accounts, or such other items as the Board may deem advisable. Notwithstanding anything herein to the contrary, the Board in its determination of the Common Expenses and the preparation of the budget shall specifically designate and identify what portion of the Common Expenses to be assessed against the members is allocable to reserves for each separate item of repair and improvement of and to said property. The amount thus assessed and collected for each such separate item of repair and improvement shall be kept in interest bearing accounts appropriately earmarked for such category. The foregoing shall not be construed to mean that the Board shall not be permitted to keep additional cash on hand in a checking or petty cash account, for the necessary discharge of its function.

Section 6.8 - EXEMPTION FROM PAYMENT OF RESERVES

Anything to the contrary herein notwithstanding, no holder of any institutional mortgage on any lot shall be required to contribute or pay any sum of reserves of any kind, whether by way of regular or special assessments or otherwise, unless such lender shall be the record owner of a lot by virtue of foreclosure, or otherwise, in which event the lender shall bear the same responsibilities as any member, and shall be responsible for all charges which may be in arrears as of the time the lender becomes the record owner.

Section 6.9 - NOTICE

The Board shall give notice to each member, in writing, and to any mortgagee who requires same, of the amount estimated by the Board for Common Expenses for the management and operation of the Association for the next ensuing period, directed to the member at his last known address by ordinary mail or by hand delivery. Said notice shall be conclusively presumed to have been delivered five (5) days after deposit in the United States mails. Service upon the member shall be deemed served upon tenant or occupant. If an annual Common Expense assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior year's assessment, and quarterly installments on such assessments shall be due upon each installment payment day until changed by an amended assessment. In the event the annual Common Expense assessment proves to be

insufficient, the budget and assessments may be amended at any time by the Board, provided that nothing herein shall serve to prohibit or prevent the Board from imposing a lump sum assessment in the case of any immediate need or emergency which cannot be met by reserve funds earmarked for such contingency.

Section 6.10 - ACCELERATION OF ASSESSMENT INSTALLMENT UPON DEFAULT

If a member shall be in default in the payment of an installment upon a Common Expense assessment, the Board may accelerate the remaining installments of the assessments upon notice to the member and the then unpaid balance of the Common Expense assessment shall be become due upon the date stated in the notice sent to the member by registered or certified mail. If such default shall continue for a period of thirty (30) days, then the Board shall be obligated to (i) accelerate the remaining installment, (ii) file a lien for such accelerated assessment; and (iii) notify the mortgagee of the unit affected by such default. If said default continues for a period of 180 days, then the Board shall have the duty to proceed upon the foregoing lien pursuant to law and/or to commence a suit against the appropriate parties to collect said assessment.

Section 6.11 - INTEREST AND COUNSEL FEES

The Board, at its option, shall have the right in connection with the collection of any Common Expense assessment, or other charge to impose an interest or late charge at the legal maximum rate if such payment is made after a date certain stated in such notice. In that event, the Board may add to the aforesaid charge or charges a sum or sums of twenty percent (20%) of the gross amount due as counsel fees, in addition to such costs allowable by law.

Section 6.12 - POWER OF ATTORNEY TO MORTGAGE

In the event the Board shall not cause the enforcement procedures provided in Section 6.11 above to be implemented within the time provided, the first mortgage of any lot as to which there shall be unpaid assessments, is hereby irrevocably granted with a power of attorney to commence such actions and to do such things, all in the name of the Association. The said power of attorney is expressly stipulated to be coupled with an interest in the subject matter. The Association shall pay to such mortgagee all reasonable expenses which may be incurred by the mortgagee in furtherance of the exercise of the power herein granted, provided such expenses are sought to be recovered in the action.

Section 6.13 - ANNUAL AUDIT

The Board shall submit the books, financial records, and memoranda to an annual audit by an independent certified public accountant who shall audit the same and report therein in writing to the Board and in summary form to the members and to other such persons, firms or corporations as may be entitled to receive same. A copy of same shall be delivered to each dwelling owner upon application, within ninety (90) days of the expiration of the fiscal year of the Association. The audit shall cover the operating budget and reserve accounts.

Section 6.14 - EXAMINATION OF BOOKS

Each member shall be permitted to examine the books of accounts of the Board at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten (10) days prior written notice of the lot owner's desire to make such an examination.

Section 6.15 - FIDELITY BONDS

Fidelity Bond (s) shall be required by the Board from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Trustees. The premiums on such bonds shall be paid by the Association. The bond or other guarantee shall be in sufficient amount to include accumulated reserves, but not less than \$100,000. (See Section 5.2.10)

ARTICLE 7 - OFFICERS

Section 7.1 - DESIGNATION

The principal officers of the Association shall be a President, and a Vice President, both of whom shall be members of the Board, and a Secretary and a Treasurer. The Board may also appoint Assistant Treasurers and Assistant Secretaries as in their judgment may be necessary or desirable. Any two (2) offices, except that of President and Vice President may be held by one person. All officers must be members of the Association.

Section 7.2 - ELECTION OF OFFICERS

The officers of the Association shall be elected annually by the Board at a special Board of Trustees meeting immediately following each annual election and such officers shall hold office at the pleasure of the Board. The meeting must be held no later than seven (7) days after the day of the election.

Section 7.3 - REMOVAL OF OFFICERS

Upon an affirmative vote of two-thirds (2/3) majority of the full Board of Trustees, any officer(s) may be removed, with cause, and their successor elected at any regular meeting of the Board, or at any special meeting of the Board called for that purpose. Before any action is taken, said officer(s) shall have the right to a hearing before the Trustees at a special meeting for that purpose only.

Section 7.4 -- DUTIES AND RESPONSIBILITIES OF OFFICERS

Section 7.4.1 The President shall be the chief executive officer of this Association, and shall preside at all meetings of the Association and of the Board of Trustees. The President shall have all of the general powers and duties which are usually vested in the office, including , but not limited to the power to appoint committees from among the members of the Association as deemed appropriate to assist in the conduct of the affairs of the Association.

Section 7.4.2 The Vice President shall take the place of the President and perform the duties of that office whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint a Trustee to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

Section 7.4.3 The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Members of the Association. The Secretary shall have charge of such books and papers as the Board may direct; and shall; in general, perform all the duties incident to the office of the Secretary.

Section 7.4.4 The Treasurer shall be responsible for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects to the credit of the Association in such depositories as may from time to time be authorized by the Board.

Section 7.5 - OTHER DUTIES AND POWERS

The officers shall have such other duties and powers and responsibilities as shall, from time to time, be authorized by the Board.

Section 7.6 - ELIGIBILITY OF TRUSTEES

Nothing herein contained shall prohibit a Trustee from being an officer.

ARTICLE 8

**COMPENSATION, INDEMNIFICATION AND CULPABILITY OF OFFICERS
AND TRUSTEES**

Section 8.1 - COMPENSATION

No compensation shall be paid to the President or Vice President or to any Trustee acting as an Officer or as a Trustee. The Secretary and/or Treasurer may be compensated for their services if the Board determines that such compensation is appropriate. Nothing herein stated shall prevent any Officer or Trustee from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association.

Section 8.2 - INDEMNIFICATION

Each Trustee and officer of the Association, and their delegates, shall be indemnified by the Association against the actual amount of loss, including counsel fees, reasonably incurred by or imposed upon him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been, a Trustee or Officer of the Association, or delegate, except as to matters as to which he shall be finally found in action to be liable for gross negligence or willful misconduct. In the event of a settlement of any such case, indemnification shall be provided only in connection with such matters covered by settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct.

Section 8.3 - CULPABILITY

Unless acting in bad faith, neither the Board as a body nor any Trustee nor any officer of the Association nor the delegates of any of them, shall be personally liable to any member in any respect for any action or lack of action arising out of the execution of his office. Each member shall be bound by the good faith actions of the Board and Officers of the Association or their delegates, in the execution of the duties of said Trustees and Officers.

ARTICLE 9 - COVENANTS COMMITTEE

Section 9.1 - Purpose

The Board shall establish a Covenants Committee, consisting of at least three (3) members appointed by the Board, in order to assure that the Properties shall always be maintained in a manner:

Section 9.1.1 Providing for visual harmony and soundness of repair;

Section 9.1.2 Avoiding activities deleterious to the aesthetic or property values of the Property;

Section 9.1.3 Furthering the physical comfort of the majority of the members, their guests, invitees, and lessees; and

Section 9.1.4 Promoting the general welfare and safety of the PHEASANT RUN HOME OWNERS ASSOCIATION.

Section 9.2 - POWERS

The Covenants Committee shall regulate the external design, appearance, use and maintenance of the individual homes and properties, and the Common Elements and Grounds in accordance with standards and guidelines contained in the Declaration, these By-laws, or the rules as otherwise adopted by the Board. The Covenants Committee shall have the power to issue a cease and desist request to members, guests, invitees, or lessees whose actions are inconsistent with the provisions of the Declaration, these By-laws or the Rules and Regulations as otherwise adopted by the Board and Resolutions of the Board (upon petition of any member or upon its own motion.).

Section 9.2.1 The Covenants Committee shall from time to time, as required, provide interpretations of the Declarations, Articles of Incorporation, and these By-laws, Rules, Regulations and/or Resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a member of the Board.

Section 9.2.2 Any action, ruling or decision of the Covenants Committee to any party deemed by the Board to be an aggrieved party may be appealed to the Board and a vote of a majority of the full membership of the Board may modify or reverse any such action, ruling or decision.

Section 9.3 - AUTHORITY

The Covenants Committee shall have such additional duties, power and authority as the Board may from time to time provide by resolution, including the right to impose fines, pursuant to Article 12, Section 12.2 of these By-laws. The Board may relieve the Covenants Committee of any of its duties, powers and authority either generally or upon a case-by-case basis by a vote of a majority of its full authorized membership thereof. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board. Notwithstanding the foregoing, no action may be taken by the Covenants Committee without giving the member involved at least ten (10) days prior written notice and affording him or her the opportunity to be heard with or without counsel, with respect to the violation(s) asserted. Procedures for Alternate Dispute Resolutions shall be in accordance with the Declaration of Covenants and Restrictions:

ARTICLE 10 - COMMITTEES

Section 10.1 - STANDING COMMITTEES

The standing committees of the Association shall be:

- Budget Committee
- Club House Committee
- Common Grounds Committee
- Covenants Committee
- Newspaper/Publicity Committee
- Pool Committee
- Recreation Committee
- Sprinkler Committee

Section 10.1.1 Unless otherwise provided herein, each committee shall consist of a Chairperson and two or more members and shall have a member of the Board as liaison only. Each committee shall be appointed by the Board. The Board may appoint such other committees as it deems desirable, and committees may be eliminated by the Board. Committee members shall serve at the pleasure of the Board.

Section 10.2 SPECIFIC COMMITTEE FUNCTIONS

Section 10.2.1 The Budget Committee: shall prepare the annual operating budget for approval by the Board of Trustees, and shall prudently and discretely allocate operating expenses within that budget. Proportional parts of the Common Expenses including adequate reserves shall be assessed against Association Members as provided in these By-laws. The Budget Committee shall make recommendations to the Association Board on investments.

Section 10.2.2 The Club House Committee: shall be responsible for the maintenance and repair of the club house and surrounding area excluding the Pool.

Section 10.2.3 The Common Grounds Committee: shall be responsible for the maintenance and care of the common grounds, including lawn care and snow removal.

Section 10.2.4 The Covenants Committee: shall have the duties and functions as described in Article 12 of these By-laws and the Declaration of Covenants & Restrictions. In addition, it shall review any proposals, programs, or activities which may adversely affect the residential value of the Common Property and shall advise the Board regarding Association action on such matters.

Section 10.2.5 The Newspaper/Publicity Committee: shall inform the Members of all activities and functions of the Association and shall, after consultation with the Board, make such public releases and announcements as are in the best interests of the Association.

Section 10.2.6 The Pool Committee: shall be responsible for the maintenance, repair and safe operation of the Association pool and its surrounding areas.

Section 10.2.7 The Recreation Committee: shall establish and operate recreation programs for the benefit of the Association members, and shall perform such other functions as the Board may determine.

Section 10.2.8 The Sprinkler Committee: shall be responsible for the maintenance, repair and safe operation of the Association's sprinkler system.

Section 10.3 - POWERS

Each committee shall have the power to appoint a sub-committee from its membership and may delegate to any such sub-committee the responsibility to receive complaints from Members on any matter involving Association functions, duties, and activities, within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer to such other committee, Trustee, or officers of the Association as may be further concerned with the matter presented.

ARTICLE 11

ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE ASSOCIATION

Section 11.1 Each Committee for which expenses have been budgeted, shall have the power to expend up to \$100 for miscellaneous budgeted items without approval of the Board. These expenditures shall not exceed \$100 or 5% in the aggregate, of the annual Committee budget, whichever is greater. Expenditures other than the above shall require prior approval of the Board.

Section 11.2 Whenever, in the judgment of the Board, the Common Elements require expenditure for additions, alterations, or improvements costing in excess of \$5,000, said expenditure shall not be made unless it has been approved by a majority of votes at an Association meeting at which a quorum is present. When approval has been obtained, all members may be assessed for the cost as a Common Expense. In the event of an emergency which could cause damage to any Common Property, the Board may expend sums in excess of \$5,000 to protect said Common Property or parts thereof and the judgment of the Board shall be final.

ARTICLE 12 - ENFORCEMENT

Section 12.1 - ENFORCEMENT

The Trustees shall have the power, at their sole option, to enforce the terms of this instrument or any rule and regulation promulgated pursuant thereto, by any or all of the following

Section 12.1.1 Self help

Section 12.1.2 Sending notice to the offending party to cause certain things to be done or to be undone.

Section 12.1.3 Restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof.

Section 12.1.4 Complaint to the duly constituted authorities;

Section 12.1.5 Taking any other action before any court, summary or otherwise, as may be provided by law.

Section 12.2 - FINES

The Association shall have the power to levy fines against any Members for violations of any rules, regulations, or restrictions contained in these By-Laws or in the Declaration of Covenants and Restrictions and may do so in accordance with the provisions contained in the Declaration of Covenants and Restrictions.

Section 12.3 - WAIVER

No restriction, condition, obligation or covenant contained in these By-laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same, irrespective of the number of violation or breaches thereof which may occur.

ARTICLE 13 - AMENDMENTS

Subject to the restrictions in Section 6.8 of Article 6 hereof, these By-laws, or any of them, may be altered, repealed, or new By-laws may be made at any meeting of the Association

duly constituted for such purpose, and previous to which written notice to the members of the exact language of the amendment or of the repeal shall have been sent, a quorum being present, by an affirmative vote of fifty-one percent (51%) of the votes entitled to be cast in person, by proxy, or by absentee ballot, except that the obligation or the proportionate responsibility for the payment of the Common Expenses with respect to lots or the Common Elements may not be changed by reason of any such amendment or repeal.

ARTICLE 14 - CONFLICT: INVALIDITY

Section 14.1 - CONFLICT

Anything to the contrary herein notwithstanding, if any provision of this Instrument is in conflict with or contradiction of the Declaration or with the requirements of any law, then the requirements of said Declaration or law shall be deemed controlling.

Section 14.2 - INVALIDITY

The invalidity of any part of these By-laws shall not impair or affect in any manner the enforceability or affect the balance of the By-laws.

ARTICLE 15 - NOTICE

Any notice required to be sent to any member under the provisions of the Declarations or Articles of Incorporation or these By-laws shall be deemed to have been properly sent and notice thereby given, when mailed, by regular post, with postage prepaid, addressed to the lot owner at the last known post office address of the person who appears as a member on the records of the Association at the time of such mailing. Notice to one of the two or more co-owners of a lot shall constitute notice to all co-owners. It shall be the obligation of every lot owner to immediately notify the Secretary of the Association in writing of any change of address.

ARTICLE 16 - DECLARATION OF COVENANTS AND RESTRICTION

The Declaration of Covenants and Restrictions for Pheasant Run together with any amendment or supplementary declaration, shall be deemed incorporated in these By-laws by reference. In the event of any conflict, the Declaration, together with any amendment or supplementary declaration, shall be deemed to be controlling.

ARTICLE 17 - CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "PHEASANT RUN HOMEOWNERS ASSOCIATION, INC."