

**BY-LAWS
OF
POWELL COVE ESTATES
HOME OWNERS ASSOCIATION, INC.**

CERTILMAN BALIN ADLER & HYMAN, LLP
Attorneys for the Sponsor
90 Merrick Avenue
9th Floor
East Meadow, New York 11554
(516) 296-7000

1554854.7

BY-LAWS
OF
POWELL COVE ESTATES
HOME OWNERS ASSOCIATION, INC.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. NAME, LOCATION AND PRINCIPAL OFFICE.....	1
ARTICLE II. DEFINITIONS	1
ARTICLE III. PURPOSE	4
ARTICLE IV. APPLICABILITY	4
ARTICLE V. USE OF FACILITIES	4
ARTICLE VI. MEMBERSHIP AND VOTING RIGHTS.....	5
Section 1. Membership.....	5
Section 2. Suspension of Membership.....	6
Section 3. Transfer of Membership.....	6
ARTICLE VII. QUORUM, PROXIES AND WAIVERS	7
Section 1. Quorum.....	7
Section 2. Vote Required to Transact Business.....	7
Section 3. Right to Vote.....	7
Section 4. Number of Votes.....	7
Section 5. Proxies.....	8
Section 6. Waiver and Consent.....	8
Section 7. Place of Meeting.....	8
Section 8. Annual Meetings.....	8
Section 9. Special Meetings.....	8
Section 10. Notice of Meetings.....	9
Section 11. Order of Business.....	9
ARTICLE VIII. BOARD OF DIRECTORS.....	9
Section 1. Number and term.....	9
Section 2. Voting and Right of Developer to Designate Certain Board Members.....	10
Section 3. Vacancy and Replacement.....	11
Section 4. Removal.....	11
Section 5. Resignation.....	11
Section 6. Powers.....	11
Section 7. Compensation.....	15
Section 8. Meetings.....	15

Section 9.	Annual Statement.....	16
Section 10.	Fidelity Bonds.....	16
ARTICLE IX.	OFFICERS.....	16
Section 1.	Elective Officers.....	16
Section 2.	Election.....	17
Section 3.	Appointive Officers.....	17
Section 4.	Term.....	17
Section 5.	The President.....	17
Section 6.	The Vice President.....	17
Section 7.	The Secretary.....	17
Section 8.	The Treasurer.....	18
Section 9.	Agreements, etc.....	18
ARTICLE X.	NOTICES.....	18
Section 1.	Definitions.....	18
Section 2.	Service of Notice Waiver.....	19
ARTICLE XI.	COMMON MAINTENANCE CHARGES.....	19
Section 1.	Creation of the Lien and Personal Obligation of Assessments.....	19
Section 2.	Purpose of Common Maintenance Charges.....	19
Section 3.	Basis of Common Maintenance Charges.....	19
Section 4.	Date of Commencement of Common Maintenance Charges: Due Dates.....	19
Section 5.	Effect of Non-Payment of Common Maintenance Charges:.....	19
Section 6.	Subordination of Lien to Mortgages.....	19
Section 7.	Checks.....	20
Section 8.	Operating Account.....	20
Section 9.	Other Accounts.....	20
ARTICLE XII.	INSURANCE.....	20
ARTICLE XIII.	AMENDMENTS.....	20
ARTICLE XIV.	SELLING, LEASING AND GIFTS OF HOMES.....	21
Section 1.	Selling.....	21
Section 2.	Leasing Requirements.....	21
Section 3.	Tenant Bound by Declaration.....	23
Section 4.	Lenders.....	23
Section 5.	Sponsor.....	23
Section 6.	Gifts, etc.....	23
ARTICLE XV.	INDEMNIFICATION.....	24
Section 1.	Indemnification to Officers and Directors.....	24
Section 2.	Indemnification to Employees and Agents.....	24
Section 3.	Indemnification to Others.....	24
Section 4.	Other Rights.....	25

ARTICLE XVI.	RULES AND REGULATIONS	25
Section 1.	General.....	25
Section 2.	Violations of Rules and Regulations.....	29
Section 3.	Costs	30
Section 4.	Right to Change Rules and Regulations.....	31
Section 5.	Sponsor	32
ARTICLE XVII.	GENERAL PROVISIONS	32
Section 1.	Fiscal Year.....	32
Section 2.	Seal.	32
Section 3.	Architectural Control.....	32
Section 4.	Outdoor Parking Spaces	35
Section 5.	Examination of Books and Records.....	36
Section 6.	Construction.	37
Section 7.	Declaration Required by New York City Planning Commission.	37
Section 8.	Severability	37

BY-LAWS
OF
POWELL COVE ESTATES
HOME OWNERS ASSOCIATION, INC.

A New York Not-for-Profit Corporation

ARTICLE I. NAME, LOCATION AND PRINCIPAL OFFICE

These are the By-Laws of Powell Cove Estates Home Owners Association, Inc. hereinafter referred to as the "Association". The principal office of the Association shall be located in 1 Executive Boulevard, Yonkers, New York 10701

ARTICLE II. DEFINITIONS

1. "Association" - Powell Cove Estates Home Owners Association, Inc., a Not-for-Profit Corporation organized to own and maintain certain Recreational and other Association Common Area Facilities and which will also be responsible for the maintenance and repair of the Common Elements in Powell Cove Estates Condominium and any other legal type of residential housing that may be located in any subsequent Phase.
2. "Association Common Areas" or "Association Common Properties" - The land and improvements which will be owned by the Association which will consist solely of Lot 108 which includes the Public Access Area located therein.
3. "Association Common Expenses" - The Common Expenses of the Association.
4. "Board of Directors" - The governing body of the Home Owners Association responsible for its affairs.
5. "Board of Managers" - The governing body of each Condominium regime subject to the Declaration of Covenants, Restrictions, Easements, Charges and Liens that is responsible for its affairs.
6. "Building" - A cluster of three (3) or more stacks.

7. "By-Laws" - The documents governing the operation of the Condominium and the Association respectively.
8. "Common Charges" - Each Home's proportionate share of the common expenses in accordance with its common interest in the Condominium.
9. "Common Elements" - All portions of the Condominium subject to this Declaration other than the Homes.
10. "Common Expense" - (a) Expenses of operation of the Condominium, and (b) All sums designated common expenses by or pursuant to the provisions of the Condominium Act, the Declaration or the By-Laws.
11. "Common Interest" - The proportionate, undivided interest each Home Owner has in the Common Elements of each Condominium regime.
12. "Common Maintenance Charges" or "Maintenance Charges" - Each Home Owner's proportionate share of the expenses of the Association.
13. "Community", "Development" or "Properties" - As used herein includes Powell Cove Estates Condominium I, Powell Cove Estates Home Owners Association and the subsequent Phases of the Property.
14. "Declaration" - The Declaration recorded in the New York City Registrar's Office at CRFN 200600638840 required by the New York City Planning Commission which details the requirements applicable to the Park and Public Access Area on Lot 108.
15. "Declaration of Condominium" - The instrument by which each Condominium regime subject to the Declaration of Covenants, Restrictions, Easements, Charges and Liens is submitted to the provisions of the Condominium Act, and such instrument as from time to time may be amended, consistent with the provisions of the Condominium Act and of the By-Laws.
16. "Declaration of Covenants, Restrictions, Easements, Charges and Liens" - The instrument to be recorded among the land records of the Registrar's Office of the City of New York, Queens County which will encumber both the Association Common Properties, Powell Cove Estates Condominium and which may be amended to include any Properties in subsequent Phases if not encumbered initially and as said document may from time to time be further amended.
17. "Director" - One (1) of the individual representatives of the Board of Directors of Powell Cove Estates Home Owners Association.
18. "Garage Parking Space Unit" - The Parking Space Units located in each garage of a Building in each Condominium subject to this Declaration.

19. "Garage Parking Space Unit Owner" – The owner of a Garage Parking Space Unit.
20. "Home" or "Homes" - As used herein is equivalent to the term "Unit" or "Units" as used in Article 9-B of the Real Property Law.
21. "Home Owners" - The Owner of each Home in a Condominium Unit that is subject to this Declaration.
22. "Irrevocably Restricted Common Elements" or "Limited Common Elements" - The portions of the Common Elements of a Condominium that are irrevocably restricted in use to specified Home Owners.
23. "Licensor" – The Board of Directors of the Association on behalf of the Condominium who has entered into a License Agreement with a Home Owner in the Community as defined herein for an Outdoor Parking Space.
24. "Licensee" – A Home Owner in the Community as defined herein, who has entered into a License Agreement with the Board of Directors of the Association on behalf of the Condominium for an Outdoor Parking Space.
25. "License Agreement" – The agreement entitling the Licensee the exclusive right to use an Outdoor Parking Space during the term of the agreement.
26. "Manager" – One (1) of the individual representatives of the Board of Managers of each Condominium regime that is subject to the Declaration of Covenants, Restrictions, Easements, Charges and Liens.
27. "Member" - Each holder of a membership interest in the Association as set forth in the Declaration of Covenants, Restrictions, Easements, Charges and Liens.
28. "Outdoor Parking Space" – One of the Parking Spaces in the Condominium assigned to a specific Unit as a Limited Common Element for the Unit Owner's exclusive use.
29. "Park" – The park that will be located on Lot 108 of the Community that will be open to the public and Home Owners in the Community.
30. "Phase I" - The portion of the Community which will include the sixty one (61) Homes in Powell Cove Estates Condominium I and the portion of the Home Owners Association Common Area located therein.
31. "Powell Cove Estates Condominium I" - Powell Cove Estates Condominium I which will contain the sixty one (61) Homes and the Common Elements in that Condominium.
32. "Public Access Area" – The area located within Lot 108 that will include a public promenade, access area and the public Park.

33. "Stacks" – A structure containing two (2) or more Homes and an enclosed structure owned by the Association.
34. "Subsequent Phases" – The portion of the Community which will include up to an additional one hundred forty-one (141) Homes to be part of two (2) or more Condominium regimes and any Home Owner Association Common Area located therein.
35. "The Properties" – All properties currently or subsequently subject to his Declaration and any Supplemental Declaration as described in Article II of the Declaration.
36. "Rules and Regulations" – The provisions contained in Article XVI of the By-Laws as they may be amended, altered, modified, added to or repealed by the Board of Directors.
37. "Sponsor" or "Developer" or "Declarant" - AVC Powell C Development Corp., a New York Corporation, with an address at One Executive Boulevard, Yonkers, New York 10701.
38. "Supplemental Declaration" – The Supplementary Declaration of Covenants, Restrictions, Easements, Charges and Liens which is to be recorded in the Registrar's Office in the City of New York, Queens County in order to bring subsequent Phases within the scheme of the Declaration pursuant to Article II, Section 2.

ARTICLE III. PURPOSE

This Association is formed to own, operate, manage, maintain and control the Common Areas and to perform certain maintenance and repairs to the Properties, including the Common Elements of Powell Cove Estates Condominium I and any subsequent Condominium regime located in subsequent Phases, as a Home Owners Association for the benefit of the Members of the Association.

ARTICLE IV. APPLICABILITY

All present and future Members, their family members, tenants, lessees, occupants, guests, licensees, agents, employees and any other person or persons that shall be permitted to use the Common Areas shall be subject to these By-Laws and to the Rules and Regulations issued by the Association to govern the conduct of its Members.

ARTICLE V. USE OF FACILITIES

The Common Areas shall be limited to the use by the Members, their family members, their lessees, occupants and their guests and provision contained in that certain Declaration dated September 11, 2006 recorded in the New York City

Registrar's Office at CRFN 200600638840. Pursuant to said Declaration Lot 108 will include certain Common Open Spaces which shall include the Public Access Area located therein. The Public Access Area shall include a public promenade, access area and public park. The Declaration further provides that the Public Access Area shall be open to both residents of Powell Cove Estates and non-residents alike, on a non-discriminatory basis and that the improvements therein shall be maintained, repaired and replaced, if necessary, by the Association. In the event that a Member shall lease or permit another to occupy the Member's Home, however, the lessee or occupant shall at the option of the Member, be permitted to enjoy the use of the Common Areas in lieu of and subject to the same restrictions and limitations as said Member. Any Member, lessee or occupant entitled to the use of the Association facilities may extend such privileges to members of his or her family residing in his or her household by notifying the Secretary in writing of the names of any such persons and of the relationship of such Member, lessee or occupant to such persons. The Board may establish a limitation on guest privileges and/or establish a guest fee for the use of the Common Areas by guests of Members or permitted lessees or occupants of Homes and their respective family members.

Developer shall have the right, on an equal basis with other Members to use all or any of the Common Areas or permit all or any of the Common Areas to be used by Developer's designee or any prospective purchaser of a Home or any tenants of Unsold Homes, without charge, in accordance with and subject to these By-Laws and any rules and regulations promulgated by the Board. In addition, Developer shall have the right, until all Unsold Homes are sold, including all Homes in all phases subject to the Declaration of Covenants, Restrictions, Easements, Charges and Liens to use all or any of the Common Areas without charge, for exhibitions or other promotional functions with respect to Developer's sales programs. Developer shall also have the right to use any clubhouse or other Association building or portion thereof as; (i) offices for the promotion, sale, rental, management and/or operation of the Unsold Homes; (ii) offices in connection with any installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change being performed, or to be performed, by, or on behalf of, Developer with respect to the Common Areas and/or the Homes or Unsold Homes; and/or (iii) for any other purpose. In no event, however, shall Developer or such designee be entitled to use any portion of the Common Areas in such a manner as will unreasonably interfere with the use of the same or of any Home for its permitted purposes. This provision regarding Developer may not be amended without the written consent of the Developer.

ARTICLE VI. MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership.

The Association shall have one class of membership interest as follows:

The Owner of a Home or Unsold Home on The Properties then subject to the Declaration shall be a Member of the Association whether such Home is a townhouse or any other type of residential dwelling unit and whether such ownership is joint, in common or tenancy by the entirety. Each Member is entitled to one vote regardless of the number of Homes or Unsold Homes owned by a Member. When more than one person or entity holds such interest in such membership, the one vote attributable to such Member shall be exercised as such persons mutually determine but not more than one vote may be cast with respect to any such Member.

Section 2. Suspension of Membership.

The rights of a Member or permitted lessee or occupant of a Home, and their respective family members, guests and invitees, to the use and enjoyment of the Common Areas are subject to the payment of periodic Common Maintenance Charges levied by the Board, the obligation of which Common Maintenance Charges is imposed against each Member and becomes a lien upon the property of any Home Owner against which such Common Maintenance Charges are made as provided for by Article VI of the Declaration. If a Member shall be in default in the payment of the Common Maintenance Charges assessed against such Member's Home, and fails to cure such default within five (5) days after receipt of written notice from the Board, the Board, in its sole discretion, shall have the option to prohibit all privileges of the Association by such Member, permitted lessee or occupant, and the respective family Members, guests and invitees of the foregoing, and until such Member is reinstated in good standing in the Association, to take such other legal action as may be permitted by applicable law or these By-Laws. In addition to the foregoing, any Member so in default shall lose all voting privileges, shall be ineligible to be considered for membership to the Board and, if on the Board, shall be suspended thereto until such time as all Common Maintenance Charges, together with late charges, interest and expenses, if any, are paid to the Association. In no event, however, shall a Member's or Member's permitted occupant's right of ingress and egress to and from his or her Home and Lot through the Common Area be curtailed in any manner. This Section 2 of Article VI shall not apply to Developer.

Section 3. Transfer of Membership.

Membership in the Association shall be appurtenant to, and may not be transferred except in conjunction with the lawful sale or conveyance of a Home. No Home Owner shall be permitted to sell or convey his or her Home unless and until he or she shall have paid in full to the Board all unpaid Common Maintenance Charges and other amounts required by the Board to be paid and assessed by the Board against such Home. Upon such sale or conveyance, the seller of such Home shall relinquish his or her membership in the Association and the purchaser of such Home shall automatically become a Member, subject to this Declaration, the By-Laws and the Rules and Regulations.

ARTICLE VII. QUORUM, PROXIES AND WAIVERS

Section 1. Quorum.

So many Members as shall represent at least fifty-one (51%) percent of all Members whose Homes are then subject to the Declaration present in person or represented by written proxy shall be requisite to and shall constitute a quorum at all meetings of the Association for the transaction of business, except as otherwise provided by Statute, by the Declaration, the Certificate of Incorporation of the Association or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting. At least five (5) days written notice of such adjourned meeting shall be given to all Members. At such adjourned meeting any business may be transacted which might have been transacted at the meeting originally called. At such adjourned meeting, so many Members as shall represent at least thirty three and one third (33-1/3%) percent of all Members whose Homes are then subject to the Declaration shall constitute a quorum. If, however, such reduced quorum shall not be present or represented at such adjourned meeting of the Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting and such adjourned meeting shall require at least twenty-five (25%) percent of all Members whose Homes are then subject to the Declaration. At least 5 days written notice of such adjourned meeting shall be given to all Members.

Section 2. Vote Required to Transact Business.

When a quorum is present at any meeting, the vote of a majority of the Members present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all Members, unless the question is one upon which by express provision of the Statute, Declaration, Certificate of Incorporation or of these By-Laws, a different vote is required, in which case such express provisions shall govern and control the decision of such question.

Section 3. Right to Vote.

Members shall be entitled to vote either in person or by proxy at any meeting of the Association. Any such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 4. Number of Votes.

Each Member shall be entitled to one (1) vote regardless of the number of Homes owned by such Member.

Section 5. Proxies.

All proxies shall be in writing signed by the owner, 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.

Section 6. Waiver and Consent.

Wherever the vote of the membership at a meeting is required or permitted by Statute or by any provision of the Declaration, Certificate of Incorporation or by these By-Laws to be taken in connection with any action of the Association, the meeting and vote of the membership may be dispensed with if all Members 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 7. Place of Meeting.

Meetings shall be held at any suitable place convenient to the Members as may be designated by the Board of Directors and designated in the notices of such meetings.

Section 8. Annual Meetings.

The first annual meeting of the membership of the Association shall be held within one (1) year of the closing of the first home. Thereafter the annual meeting of the membership of the Association shall be held on such date as is fixed by the Board of Directors but at least on an annual basis. At such meetings there shall be elected by ballot of the membership a Board of Directors in accordance with the requirements of Article VIII of these By-Laws. The Members may also transact such other business as may properly come before the meeting.

Section 9. Special Meetings.

It shall be the duty of the President to call a special meeting of the Association, if so directed by the Board of Directors, or upon the presentation to the Secretary of a petition signed by a majority of the Members. The secretary shall cause a notice of such special meeting stating the time, place and object thereof and the officer or other person or persons by whom the meeting is called, to be delivered personally or mailed as provided in Section 10 of this Article to each member of record of the Association entitled to vote at such meeting not less than ten (10) nor more than thirty (30) days before such meeting. The date of the special meeting shall be determined by the Board of Directors and shall be held no later than sixty (60) days from receipt of any written request pursuant to this Section 9 unless a later date is agreed to in writing by the members or the Board of Directors, requesting such meeting. No business other than

that stated in such notice shall be transacted at such special meeting unless all members of the Association are present in person or by proxy. Any or all of the Directors of the Association, other than those designated by the Developer may be removed without cause by vote of the members at a special meeting called pursuant to this section if the meeting is called for such purpose.

Section 10. Notice of Meetings.

It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member at least ten but not more than thirty days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 11. Order of Business.

The order of business at all meetings 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) Report of officers
- (e) Report of committees
- (f) Appointment of inspectors of election (in the event there is an election)
- (g) Election of Directors (in the event there is an election)
- (h) Unfinished business
- (i) New business

ARTICLE VIII. BOARD OF DIRECTORS

Section 1. Number and term.

The initial Board, consisting of three (3) Directors, shall be designated by the Developer to serve until the first annual meeting of the Association. Thereafter, the number of Directors which shall constitute the whole Board shall be a total of five (5) Directors to be elected by the Home Owners or to be designated by the Sponsor. At the first annual meeting and at all subsequent annual meetings, a total of five (5) Directors shall be elected or designated. All Directors, other than those designated by the Sponsor, shall be elected by the Members.

The term of office of two (2) of the Directors shall be fixed for three (3) years, the term of office of two of the Directors shall be fixed at two (2) years, and the term of office of one of the Directors shall be fixed at one (1) year. The two (2) Home Owners receiving the highest number of votes shall be elected to the three (3) year term, the two (2) Home Owners receiving the next highest number of votes shall be elected to the two

(2) year term and the one (1) Home Owner receiving the next highest number of votes shall be elected to a one (1) year term. In the alternative at the option of the then Board of Directors separate ballots shall be conducted for each of the three terms of office. Each Member shall be entitled to cast one vote on each ballot. The two or one nominee(s) on each of the ballots, as the case may be, receiving the highest number of votes on their ballot shall constitute the duly executed Board of Directors. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting.

In addition, the President of each condominium regime or other legally permitted residential community located on the Properties and subject to the Declaration shall automatically become a non-voting member of the Board of Directors, unless said person is elected to the Board of Directors by the Members of the Association.

All Directors, other than those the Developer shall have the right to designate, must be either Members of the Association or immediate family members residing in the Member's Home. As required by law, each Director shall be at least nineteen years of age.

In no event shall any Member be eligible for election to the Board if such Member is then in default, beyond any applicable grace period, in the payment of Common Maintenance Charges or any other amounts required by the Board to be paid.

At the first annual meeting, in the event Sponsor is in control of the Board of Directors, two (2) of the Sponsor representatives shall be appointed for a one (1) year term and one (1) of the Sponsor representatives shall be appointed for a two (2) year term. Sponsor representatives shall thereafter be appointed to the same length of term until such time as Sponsor is required to relinquish the seat or Sponsor voluntarily resigns. At such time as a Sponsor representative is required to relinquish a seat or resigns a position on the Board either (a) a special meeting of the Home Owners shall be held to elect a Home Owner to fulfill the balance of the term or (b) the remaining Directors of the Board of Directors shall appoint a Home Owner to fulfill the balance of the term. At the expiration of the term an election shall be held to elect a Home Owner to the Board for a full three (3) year term.

Section 2. Voting and Right of Developer to Designate Certain Board Members.

In an election of Directors, each Member shall be entitled to one (1) vote as described in Section 1 hereof.

The Developer shall have the right to designate three (3) Directors, or a majority of the total Directors until the last Home in the entire Development (Phase I and II, unless the Developer does not add Phase II to the Development as provided for in the

provisions of Article V, Section 2 of the Declaration) is sold and Closed by the Developer. When the Developer no longer owns any Unsold Home in the Development it may not designate any Directors. Developer may not cast its votes to elect any Directors in addition to the designated Directors set forth above.

The provisions of Article VIII Sections 1 and 2 may not be amended without the written consent of the Developer.

Section 3. Vacancy and Replacement.

If the office of any Director becomes vacant by reasons of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, at a special meeting of Directors duly called for this purpose, shall choose a successor, who shall hold office for the unexpired term in respect of which such vacancy occurred and until his successor is duly elected and qualified. In the event of the failure to hold any election of directors at the time designated for the annual election of directors or in the event that the Board of Directors shall not have filled any such vacancy, a special meeting of the Members to elect a new Board of Directors or to fill such vacancy or vacancies may be called in the manner generally provided for the calling of special meetings of the Members. In the event a Director appointed by Developer resigns, the Developer shall have the sole right to appoint another Director in his or her place.

Section 4. Removal.

Directors may be removed for cause by an affirmative vote of sixty six and two thirds (66-2/3%) percent of the Members. No Director, other than a designee of the Developer, shall continue to serve on the Board if, during his term of office, he shall cease to be a Member or no longer reside in the Member's Home as part of the immediate family. In the event a Developer-designated member is removed for cause, the Developer shall have the sole right to appoint another Director in his or her place.

Section 5. Resignation.

Any director may resign at any time by written notice delivered in person or sent by certified mail to the president or secretary of the Corporation. Such resignation shall take effect at the time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

Section 6. Powers.

(a) The property and business of the Association shall be managed by its Board of Directors, which may exercise all such powers of the Association and do all such lawful acts and things as are not by Statute, Declaration, Certificate of

Incorporation or by these By-Laws, directed or required to be exercised or done by the Members or Home Owners personally. These powers shall specifically include, but not be limited to the following items:

1. To determine and levy monthly assessments ("Common Maintenance Charges") to cover the cost of operating and maintaining the Common Areas and other maintenance requirements ("Common Expenses") of the Association payable in advance. The Board of Directors may increase the monthly Common Maintenance Charges or vote a special Common Maintenance Charge assessment in excess of that amount, if required, to meet any additional necessary expenses.
2. To collect, use and expend the Common Maintenance Charges collected to maintain, care for and preserve the Common Areas on The Properties, General Common Elements and the Limited Common Elements the Association of each Condominium regime subject to the Declaration and other maintenance requirements of the Association.
3. To make repairs, restore or alter the Common Areas on the Properties and General Common Elements and the Limited Common Elements the Association of each Condominium regime subject to the Declaration after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
4. To open bank accounts and to designate the signatories to such bank accounts.
5. To borrow money on behalf of the Association when required in connection with the operation, care, upkeep, maintenance and replacement of the Common Area of the Association, provided, however, that no lien to secure repayment of any sum borrowed may be created on any Home without the written consent of the Owners of said Home. In addition, the Association is authorized to borrow money on behalf of each Condominium regime subject to this Declaration when required in connection with the operation, care, upkeep, maintenance and replacement of the General Common Elements and the Limited Common Elements the Association of the respective Condominium, provided, however, that no lien to secure repayment of any sum borrowed may be created on any Home or its appurtenant interest in the Common Elements without the written consent of the Owners of said Home.

6. To collect delinquent Common Maintenance Charges by suit or otherwise, to abate nuisances and to enjoin or seek damages from Members for violations of the house rules or rules and regulations herein referred to.
7. To make reasonable rules and regulations and to amend the same from time to time. Such rules and regulations and amendments thereto shall be binding upon the Members when the Board has approved them in writing and delivered a copy of such rules and all amendments to each Member. Such rules and regulations may without limiting the foregoing, include reasonable limitations on the use of the Common Areas by guests of the Members as well as reasonable admission and other fees for such use.
8. To impose fines or penalties upon any Member who violates the Declaration, its Rules and Regulations or By-Laws as per Article XVI of the By-Laws.
9. To employ workers, contractors and supervisory personnel, and to purchase supplies and equipment, to enter into contracts to provide maintenance, refuse removal and other services, and generally to have the power of Directors in connection with the matters hereinabove set forth.
10. To bring and defend actions by or against one or more Members any of their occupants and lessees pertinent to the operation of the Association and to assess special Common Maintenance Charge assessments to pay the cost of such litigation.
11. To hire a Managing Agent to perform and exercise the powers of the Board of Directors in the management of the Development.
12. To execute, acknowledge and deliver (i) any declaration or other instrument affecting The Properties, which the Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of any public authority, applicable to the occupancy, maintenance, demolition, construction, alteration, repair or restoration of The Properties (ii) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting The Properties which the Board deems necessary or appropriate.
13. To obtain and review insurance for the Association and the Condominium regimes subject to the Declaration, if applicable and so empowered by the Condominium regimes.
14. To assign and reassign Outdoor Parking Spaces.

(b) The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, in addition to any committee required by these By-Laws, each of such committees to include at least one (1) Director, which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Association and may have power to sign all papers which may be required, provided the said resolution or resolutions shall specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Committees established by resolution of the Board of Directors shall keep regular minutes of their proceedings and shall report the same to the Board as required.

(c) Notwithstanding anything to the contrary contained in these By-Laws until the Developer sells and closes on the last Home in the Development (Phase I and all subsequent Phases unless the Developer does not add any subsequent Phases to the Development as provided for in the provisions of Article V, Section 2 of the Declaration), the Board of Directors may not, without the Developer's prior written consent (i) make any addition, alteration or improvement to the Common Areas, or (ii) assess any Common Maintenance Charge for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund or, (iii) charge any special Common Charge assessment for a non-budgeted item unless required by law, emergency, municipal agency or for the health and safety of the Association and its Members, (iv) hire any additional employees or enter into any service or maintenance contract for work not covered by contracts in existence on the date of the closing of the first Home or, (v) borrow money or otherwise create a security interest on behalf of the Association or on any portion of the Association property or, (vi) increase or decrease the services or maintenance of the Association as set forth in the proposed first year budget of the Association, the Declaration of Covenants and Restrictions or the By-Laws or otherwise provide services in excess of those contemplated by the proposed first year budget or elsewhere in the Offering Plan or any amendments thereto, or, (vii) purchase any materials, equipment or other goods costing in excess of \$1,000, or (viii) increase the Common Maintenance Charges of the Association more than ten (10%) percent from the prior year's budget, unless required by law, emergency, municipal agency, the health and safety of the Association and its Members or if documentation is provided to the Developer in the nature of a financial statement, bids from contractors or verified increases in utility rates evidencing the need for an increase greater than ten (10%) percent, or (ix) utilize Association funds or assess the Developer in order to commence a lawsuit against the Developer or any of its principals.

So long as there are any Unsold Homes in the Development, the Board and the Home Owners shall not take any action that will interfere, impair or adversely affect the rights of the Developer to sell and construct any Unsold Homes.

However, at no time may Developer exercise veto power over expenses described in the Association budget or over expenses required to (i) comply with applicable laws or regulations, (ii) to remedy any notice of violation, or (iii) to remedy any work order by an insurer.

While Developer is in control of the Board of Directors, no mortgage liens will be placed on the Common Areas without the consent of at least fifty-one (51%) percent of the Home Owners other than the Directors or Developers' nominees.

This subparagraph (c) may not be amended without the written consent of the Developer.

Section 7. Compensation.

Directors and officers, as such, shall receive no compensation for their services.

Section 8. Meetings.

- (a) The first meeting of each Board newly elected by the Members 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 as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the annual meeting of Association Members and immediately after the adjournment of same, at which time the dates, places and times of regularly scheduled meetings of the Board shall be set.
- (b) Regularly scheduled meetings of the Board may be held without special notice.
- (c) Special meetings of the Board may be called by the President on two (2) days notice to each Director either personally or by mail or telegram. 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) Directors.
- (d) At all meetings of the Board, a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by Statute or by the Declaration or by these By-Laws. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present.

- (e) Before or at any meeting of the Board of Directors, ~~any Director may~~, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.
- (f) Members of the Board may participate in a meeting by means of a conference telephone call or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute presence at such meeting.

Section 9. Annual Statement.

The Board of Directors shall furnish to all Members and shall present annually, within three (3) months of the end of each fiscal year and when called for by a vote of the Members at any special meeting of the Members, a full and clear statement of the business conditions and affairs of the Association, including a balance sheet and profit and loss statement verified by an independent public accountant and a statement regarding any taxable income attributable to the Members and a notice of the holding of the annual meeting of Association Members.

Section 10. Fidelity Bonds.

The Board of Directors shall require that all officers and employees of the Association (except Developer or Developer's representatives) handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a Common Expense of the Association.

ARTICLE IX. OFFICERS

Section 1. Elective Officers.

The officers of the Association shall be chosen by the Board and shall consist of a President, a Vice President, a Secretary and a Treasurer. The Board of Directors may also choose one or more Assistant Secretaries and Assistant Treasurers and such other officers as in their judgment may be necessary. All officers must be either members of the Board of Directors or Members of the Association. Two or more offices may be held by the same person, except for the President who may only hold the office of President.

Section 2. Election.

The Board of Directors, at its first meeting after each annual meeting of Association Members, shall elect a President, a Vice President, a Secretary and a Treasurer. Only the President must be a member of the Board.

Section 3. Appointive Officers.

The Board may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. Term.

The officers shall hold office for a period of one year or until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed with or without cause, at any time, by the affirmative vote of a majority of the Board of Directors, provided prior notice was given to all Board members that this item was on the agenda for such meeting. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. The President.

The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Association Members and the Board of Directors, shall be an ex-officio member of all standing committees, shall have general and active management of the business of the Association, shall see that all orders and resolutions of the Board are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a corporation organized under the Not-for-Profit Corporation Law of the State of New York.

Section 6. The Vice President.

The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice President of a corporation organized under the Not-for-Profit Corporation Law of the State of New York.

Section 7. The Secretary.

The Secretary and/or Assistant Secretary shall attend all sessions of the Board and all meetings of Association Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the

standing committees when required. He shall give, or cause to be given, notice of all meetings of Association Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or by the President, under whose supervision he shall be.

Section 8. The Treasurer.

The Treasurer and/or Assistant Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Association including the vouchers for such disbursements, and shall deposit all monies, and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. These duties may also be exercised by the Managing Agent, if any. However, such Managing Agent shall not replace the Treasurer.

The Treasurer shall disburse the funds of the Association as he may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and Directors, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer, and of the financial condition of the Association.

The Treasurer shall keep detailed financial records and books of account of the Association, including a separate account for each Member, which among other things, shall contain the amount of each assessment, the date when due, the amount paid thereon and the balance remaining unpaid.

Section 9. Agreements, etc.

All agreements and other instruments shall be executed by the President or such other person as may be designated by the Board of Directors.

ARTICLE X. NOTICES

Section 1. Definitions.

Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Directors or to any Director or Association Member, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board of Directors, such Director, or Member, at such address as appears on the books of the Association.

Section 2. Service of Notice Waiver.

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, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE XI. COMMON MAINTENANCE CHARGES

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The creation of the lien and personal obligation of Common Maintenance Charges is governed by Section 1 of Article VI of the Declaration.

Section 2. Purpose of Common Maintenance Charges.

The purpose of Common Maintenance Charges is as specified in Section 2 of Article VI of the Declaration.

Section 3. Basis of Common Maintenance Charges.

The basis of the Common Maintenance Charges is as specified in Section 3 of Article VI of the Declaration.

**Section 4. Date of Commencement of Common Maintenance Charges:
Due Dates.**

The date of commencement and the due dates of Common Maintenance Charges are as specified in Section 4 of Article VI of the Declaration.

**Section 5. Effect of Non-Payment of Common Maintenance Charges:
Remedies of the Association.**

The effect of non-payment of Common Maintenance Charges and the remedies of the Association shall be as specified in Section 5 of Article VI of the Declaration.

Section 6. Subordination of Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinated pursuant to the provisions of Section 5 of Article VI of the Declaration.

Section 7. Checks.

All checks or demands for money and notes of the Association shall be signed by the President and Treasurer, or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 8. 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 monthly and special Common Maintenance Charges as fixed and determined for all Members. Disbursements from said account shall be for the general needs of the operation including, but not limited to, wages, repairs, betterments, maintenance and other operating expenses of the community.

Section 9. Other Accounts.

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

ARTICLE XII. INSURANCE

The insurance the Board of Directors is required to obtain and maintain on behalf of the Association shall be as provided for in Section 1, Article VIII of the Declaration. The procedure and requirements for repair or reconstruction of the Common Area shall be as provided for in Section 2 of Article VIII of the Declaration.

ARTICLE XIII. AMENDMENTS

Except as otherwise provided, these By-Laws may be altered, amended or added to at any duly called meeting of Association Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendment and (2) that the amendment shall be approved by vote of at least sixty six and two thirds (66-2/3%) percent of the total Members whose Homes are then subject to the Declaration. No amendment, however, shall affect or impair the validity or priority of the Members' interests and the interests of holders of a mortgage encumbering a Member's Home. Nor shall any amendment have the effect of infringing upon the Developer's right to build and make membership in or use of the Association Property available to purchasers or lessees (if permitted) of no more than all of the Homes permitted to be developed in all Phases of the Development.

Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition or deletion of, to or from the By-Laws or any rules and regulations shall be effective in any way against Developer or its designee or any Unsold Home, as

long as the Developer owns an Unsold Home on the Properties, unless Developer has given its prior written consent.

ARTICLE XIV. SELLING, LEASING AND GIFTS OF HOMES

Section 1. Selling.

Any Home may be conveyed by a Member free of any restrictions, except that no Member shall convey, mortgage, pledge, hypothecate or sell his or her Home unless and until all violations against the Home are removed, all unpaid Common Maintenance Charges assessed against the Home shall have been paid as directed by the Board of Directors. Such unpaid Common Maintenance Charges, however, may be paid out of the proceeds from the sale of a Home, or by the Grantee. Any leases applicable to a Home must comply with all the requirements contained in Section 2 below. Failure to comply will be deemed an automatic violation of the By-Laws of the Association. Any sale or lease of a Home in violation of this section or the applicable Article of the Declaration of Condominium shall be voidable at the election of the Board of Directors. Upon the written request of a Member or his or her mortgagee, the Board or its designee shall furnish a written statement of the status of any violation and the unpaid Common Maintenance Charges due from such Member which shall be conclusive evidence of the payment of amounts assessed prior to the date of the statement. A reasonable charge may be made by the Board for the issuance of such statements.

The provisions of this Section as they apply to unpaid Common Maintenance Charges shall not apply to the acquisition of a Home by a mortgagee who shall acquire title to such Home by foreclosure or by deed in lieu of foreclosure. In such event the unpaid Common Maintenance Charges against the Home which were assessed and became due prior to the acquisition of title to such Home by such mortgagee shall be deemed waived by the Association and shall be charged to all other Members of the Association as a Common Maintenance Charge. Such provisions shall, however, apply to any Common Maintenance Charges which are assessed and become due after the acquisition of title to such Home by the mortgagee and to any purchaser from such mortgagee.

Whenever the term "Home" is referred to in this Section, it shall include the Home, the Member's interest in the Association and the Member's interest in any Homes acquired by the Association.

Section 2. Leasing Requirements.

Except as noted in Sections 4, 5 and 6, every lease on every Home in each Condominium regime subject to the Declaration that may become eligible to be leased is subject to the following rules and regulations, regardless of whether stated in the lease:

- (a) the lease must be in writing;
- (b) the lease must be for the entire Home;
- (c) the lease must be for a minimum and maximum of twelve (12) months. Renewals shall be for a one (1) year term and are subject to review by the Board of Directors of the Association.
- (d) the use of the premises is subject to the Declaration and the By-Laws of each Condominium regime subject to this Declaration and the Declaration of Covenants and Restrictions and By-Laws of Powell Cove Estates Home Owners Association, Inc. and the Rules and Regulations of the entire Community.
- (e) within thirty (30) days of occupancy by the tenant, the name and telephone number of the tenant, together with a clear and complete copy of the lease, must be furnished to the Managing Agent or if no Managing Agent to a Member of the Board of Directors of the Association;
- (f) within forty-five (45) days of any renewal of a lease of a tenant, the name and telephone number of the tenant, together with a clear and complete copy of the renewal lease, must be furnished to the Managing Agent or if not Managing Agent to the Board of Directors of the Association for review;
- (g) the Home cannot be used as a motel or hotel or otherwise for transient tenants;
- (h) if any Home Owner (landlord) or tenant is in violation of any of the provisions of the applicable Declaration or By-Laws, or both, including any rules and regulations, the Condominium and/or Association, the Board of Directors may bring an action in its own name or in the name of the Home owner, or both, to have the tenant evicted or to recover damages, or both.

In order to carry out the provisions of this Article XIV and pursuant to the provisions of Article Thirteenth of the Declaration of Condominium of each Condominium regime subject to this Declaration, each Home Owner shall upon becoming a Home Owner grant an irrevocable power of attorney, to nominate, designate, constitute and appoint the Managers of the Board of Managers of the Condominium and the Directors of the Board of Directors of Powell Cove Estates Home Owners Association, Inc. and their successors, jointly, their true and lawful attorneys-in-fact, coupled with an interest, with power of substitution, in their name and on their behalf, the right to act in their behalf to take any and all action necessary against any tenant(s) that may be residing in a Home Owner's Condominium Home including but not limited to, the right to seek an eviction in a court of law for failure to adhere to any of the

provisions of the Declaration of Condominium, By-Laws and/or Rules and Regulations of the Condominium or the Declaration of Covenants, Restrictions, Easements, Charges and Liens, By-Laws and Rules and Regulations of Powell Cove Estates Home Owners Association, Inc. The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies available to the Board of Managers of the Condominium or the Board of Directors of the Association. If permitted by present or future law, the Condominium or Association may recover all of its costs, including court costs and reasonable attorney's fees, and these costs shall be a continuing lien on the Home that shall bind the Home in the hands of the then Home Owner and the Home Owner's successors and assigns. The Board of Managers of the Condominium shall give the tenant and the Home Owner written notice of the nature of the violation of the rules, and thirty (30) days from the mailing of the notice in which to cure the violation before the Board of Managers of the Condominium or the Board of Directors of the Association may file for eviction.

Section 3. Tenant Bound by Declaration.

By becoming a tenant, each tenant agrees to be bound by the Declaration, By-Laws and the other Rules and Regulations of any Condominium regime subject to the Declaration and the Declaration, By-Laws and the other Rules and Regulations of Powell Cove Estates Home Owner' Association, Inc. and recognizes and accepts the right and the power of the Association to evict the tenant for any violation by the tenant of the above, and the other rules and regulations of any Condominium regime subject to the Declaration and the Association.

Section 4. Lenders.

To protect first mortgage lenders and to encourage first mortgage lenders to make loans on Homes in any Condominium regime subject to this Declaration, only subsection (d) and (e) of Section 2 of this Article XIV shall apply to a first mortgage lender who has title to the Home through (a) foreclosure of its first mortgage on the Home; or (b) a deed in lieu of foreclosure of its first mortgage on the Home. Any subsequent purchaser from the first mortgage lender is subject to all the terms of Article XIV.

Section 5. Sponsor.

The terms of Section 2 of this Article XIV shall not be applicable to the Sponsor.

Section 6. Gifts, etc.

Any Member may convey or transfer his or her Home by gift during his or her lifetime or devise his or her Home by will or pass the same by intestacy without

restriction except as may be permitted regarding occupancy requirements as provided in Article XIII of the Declaration.

ARTICLE XV. INDEMNIFICATION

Section 1. Indemnification to Officers and Directors.

To the fullest extent allowed by law, the Association shall indemnify any person, made a party to an action by or in the right of the Association to procure a judgment in its favor by reason of the fact that he, his testator or, intestate, is or was or has agreed to become a Director or Officer of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, or in connection with an appeal therein, except in relation to matters as to which such Director or Officer is adjudged to have breached his duty to the Association, as such duty is defined in Section 717 of the Not-For-Profit Corporation Law. To the extent allowed by law, the Association shall also indemnify any person, made, or threatened to be made, a party to an action or proceeding other than one by or in the right of the Association to procure a judgment in its favor, whether civil or criminal, including an action by or in the right of any other corporation, domestic or foreign, which he or she served in any capacity at the request of the Association by reason of the fact that he, his testator or intestate was a Director or Officer of the Association or served it in any capacity against judgment, fines, amounts paid in settlement, and reasonable attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such Director or Officer acted, in good faith, for a purpose which he reasonably believed to be in the best interests of the Association and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his or her conduct was unlawful.

Section 2. Indemnification to Employees and Agents.

The Association may, to the extent authorized from time to time by the Board or by a committee comprised of members of the Board, provide indemnification to employees or agents of the Association who are not Officers or Directors of the Association with such scope and effect as determined by the Board, or such committee.

Section 3. Indemnification to Others.

The Association may indemnify any person to whom the Association is permitted by applicable law to provide indemnification or the advancement of expenses, whether pursuant to rights granted pursuant to, or provided by, the New York Not-For-Profit Corporation Law or other rights created by (i) a resolution of the Members, (ii) a resolution of Directors, or (iii) an agreement providing for such indemnification, it being expressly intended that these By-Laws authorize the creation of other rights in any such manner.

Section 4. Other Rights.

The right to be indemnified and to the reimbursement or advancement of expenses incurred in defending a proceeding in advance of its final disposition authorized by this Article XV shall not be exclusive of nor limit any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, By-Laws, agreement, vote of Members or disinterested Directors or otherwise.

Nothing contained in this provision shall limit any right to indemnification to which any Director or any Officer may be entitled to contract or under any law now or hereinafter enacted.

ARTICLE XVI. RULES AND REGULATIONS

The use of a Home by a Member or other occupant shall be subject to the provisions of the Declaration, the By-Laws and the following Rules and Regulations of the Association as they may be added to or promulgated by the Board of Directors and any Rules and Regulations and provisions in the Declaration of Condominium and By-Laws for Powell Cove Estates Condominium I and any subsequent Condominiums located in subsequent Phases.

Section 1. General

- (a) The Home and any area restricted to the Member's use shall be maintained in good repair and overall appearance.
- (b) Any Member who mortgages or sells their Home shall immediately notify the Board of Directors providing the name and address of the mortgagee or new Home Owner.
- (c) The Board of Directors shall, at the request of the mortgagee of the Home, report any delinquent assessments due from the Owner of such Home.
- (d) No nuisances shall be allowed upon The Properties nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents.
- (e) No improper, offensive or unlawful use shall be made of The Properties nor any part thereof, and all valid laws, zoning ordinances, the regulations of all governmental bodies having jurisdiction thereof, shall be observed.

- (f) Regulations promulgated by the Board of Directors concerning the use of The Properties shall be observed by the Members.
- (g) The Common Maintenance Charges shall be paid when due.
- (h) All wood and tile floors on all second or third floor Units are required to be carpeted and/or covered with padded rugs or equivalent over at least 80% of the total area.
- (i) Home Owners will be permitted to keep dogs, cats or other common household pets in their Home except that no animals may be kept or maintained in a Home for any commercial purposes; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon fifteen (15) days written notice from the Board of Directors of Powell Cove Estates Home Owners Association. The Board of Directors of Powell Cove Estates Home Owners Association may require the permanent removal of any animal kept in a Home that is not in compliance with the above as well as any animal causing or creating a nuisance or unreasonable disturbance or noise upon fifteen (15) days written notice from the Board of Directors of Powell Cove Estates Home Owners Association. In no event shall any pet be permitted in any of the Common Elements of the Condominium or Common Areas of the Association unless carried or on a leash. All Home Owners shall be responsible for picking up and disposing of their pets' waste and responsible and liable for any damage caused by their pets to any Common Elements of the Condominium or Common Areas of the Association and shall comply with all local and municipal rules and regulations regarding pets.
- (j) No resident of the Community shall post any signs, advertisements or posters of any kind including "for sale" or "for rent" signs in or on their Homes or the Common Elements of each Condominium regime subject to this Declaration or on the Common Areas of the Association, except as authorized and approved by the Board of Directors.
- (k) No Home Owner shall move, remove, add or otherwise change the landscaping on the Common Area of the Association without the consent of the Board of Directors or any Architectural Committee.
- (l) A Home Owner may not make any alterations to any part of the Common Elements of any Condominium regime subject to this

Declaration nor may any structure or other improvement (including landscaping) be built or placed on any portion of the Common Elements or Limited Common Elements without the written consent of the Board of Directors of the Architectural Committee and the Architectural Control provisions as provided for in Article XVII, Section 3 of the By-Laws of the Association. No Home Owner shall make any structural addition, alteration or improvement (of either a temporary or permanent nature) in or to his or her Home, or any Limited Common Element, without the prior written approval of the of the Architectural Committee and the Architectural Control provisions as provided for in Article XVII, Section 3 of the By-Laws of the Association.

- (m) No Home Owner shall paint the exterior surfaces of windows, exterior facade of the Home, walls or doors opening out of a Home without the consent of the Board of Directors or any Architectural Committee.
- (n) No person shall park an automobile, boat, trailer, off-track vehicle, camper, bus, truck, snowmobile or other commercial or recreational vehicle (collectively "Vehicles") on the Common Elements of each Condominium regime or on Common Areas of the Association except in designated parking areas. Any person parking a Vehicle illegally shall be subject to their Vehicle being towed and the imposition of a fine. In the event a Vehicle is towed, all costs associated with the removal of the Vehicle shall be the responsibility of the owner of the Vehicle and the Association shall not be held responsible for any damage to the Vehicle.
- (o) No repair of a Vehicle as referred to in (n) above shall be made in any of the roadways, driveways or parking areas including Outdoor Parking Spaces of the Common Elements of each Condominium regime or on Common Areas of the Association, nor shall such areas be used for storage or overnight parking of any Vehicle as referred to in (n) above, without the written permission of the Board of Directors. Automobiles shall include SUV's, station wagons or other similar types of Vehicles.
- (p) No person shall be permitted to use the Common Area of the Association except in accordance with the Rules and Regulations established by the Association's Board of Directors.
- (q) Neither the Common Elements of each Condominium regime nor the Common Area of the Association shall be obstructed, littered, defaced or misused in any manner.

- (r) No Home Owner may install a storm door on a Home Owner's Home other than a style, color and make approved by the Board of Directors.
- (s) Every Member shall be liable for any and all damage to the Common Elements of each Condominium regime and the Common Area of the Association and the property of the Association, which shall be caused by said Member, its lessees (if permitted) and occupants of Homes, their respective family members and guests and such other person for whose conduct the Member is legally responsible.
- (t) Nothing shall be done or kept on the Association Property which will increase the rate of insurance of the Common Elements of each Condominium regime subject to the Declaration of Covenants and Restrictions and the Common Areas of the Association or contents thereof without the prior written consent of the Board of Directors. No Member shall permit anything to be done or kept on The Properties which will result in the cancellation of insurance on the Common Areas of the Association or which would be in violation of any law.
- (u) The agents of the Board of Directors or the managing agent, and any contractor or workmen authorized by the Board of Directors or the managing agent, may enter any Home at any reasonable hour of the day for the purpose of performing any work authorized pursuant to the Declaration and By-Laws of the Association.
- (v) The Board of Directors or the Managing Agent may retain a pass-key to each Home for the purpose of performing any work authorized pursuant to the Declaration and By-Laws of the Association. The Home Owner shall not alter any lock on any door leading to his or her Home without the written consent of the Board of Directors or the Managing Agent. If such consent is given, the Board of Directors or the Managing Agent shall be provided with a key.
- (w) If any key or keys are entrusted by a Home Owner or occupant or by his agent, servant, employees, licensee or visitor to any employee of the Board of Directors, whether for such Home or an automobile or other time of personal property, the acceptance of the key shall be at the sole risk of such Home Owner or occupant, and the Board of Directors shall not be liable for injury, loss or

damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith.

- (x) Planting of fruits or vegetables is absolutely prohibited in or on any Common Area of the Association.
- (y) The Board of Directors may adopt rules and regulations regarding the operation of the Recreational Facilities.
- (z) Home Owners will faithfully observe the procedures established from time to time by the Board of Directors or the Managing Agent with respect to services provided and management of the Community.
- (aa) Any consent or approval given under these Rules and Regulations may be added to, amended or repealed at any time by resolution of the Board of Directors.
- (bb) Developer shall have the right to display signs for promotional, sales, exhibit and administrative purposes upon any portion of the Common Areas or upon any Unsold Home until the last Unsold Home within The Properties is sold and conveyed. Developer shall have the right, the foregoing notwithstanding, to place permanent signs on Homes of its choice, at sites chosen by Developer. Developer shall also have the right to install fencing and walls on the Homes at perimeter sites chosen by Developer. No Home Owner (other than Developer) or tenant or other person on the premises shall remove, alter, change, interfere with or tamper with, in any way, said signs, walls or fences, which shall be maintained in good condition by the Association and its Board of Directors. The cost of such maintenance shall be treated as a Common Maintenance Charge.

Section 2. Violations of Rules and Regulations

- (a) Upon receipt, by the President of the Board of Directors or by the Managing Agent, of a signed written complaint alleging violation of any of the By-Laws or Rules as herein established or hereafter established or adopted by the Board of Directors, the President of the Board of Directors, or in the President's absence, the Vice President together with any two (2) Directors of the Board of Directors, without a formal meeting of the Board of Directors, shall make a determination as to the validity of the complaint. Any Home Owner accused of a violation of the Declaration, Rules and Regulations or By-Laws shall be entitled to receive written notice by

registered mail of such accusation. The written notice shall contain the following statements:

- (i) A copy of the provision of the Declaration, By-Law or Rule or Regulation, the Home Owner has violated and a description of the manner in which the Home Owner violated the provision of the Declaration, By-Law or Rule or Regulation.
 - (ii) A time and place at which the Home Owner shall be given the opportunity to present a defense before final action is taken.
- (b) If after said notice and hearing it is determined that the complaint is valid and justified the Managing Agent or Board of Directors, if no agent, shall be directed to send written notice of such violation to the violator. If the violation is not corrected or eliminated within a period of three (3) days from the date of receipt of such notice; another notice will be sent levying a fine of up to one hundred fifty (\$150) dollars upon the violator. Such fine is to be considered as an additional Common Maintenance Charge to the account of the violator and shall be treated as such regarding late penalties and a lien upon the Property as elsewhere provided. If after imposition of a fine the violation is not corrected or eliminated, the Board of Directors may assess additional fines of up to one hundred fifty (\$150) dollars each after serving written notice upon the violator as provided for above. If the violation results in loss of or damage to property classified as Common Elements of any Condominium regime subject to this Declaration or the Common Area of the Association, the Board of Directors shall direct the Managing Agent or the Board of Directors, if no Managing Agent, to have said loss or damage repaired or replaced, and the actual cost of said repair or replacement shall be assessed to said violator as an additional Common Maintenance Charge.

Section 3. Costs

Any costs incurred by the Board of Directors to remedy or cure any violation of the Declaration, By-Laws or the Rules or Regulations of the Association or any Condominium regime subject to this Declaration, as herein or hereafter established, shall be an additional Common Maintenance Charge charged to the violator in addition to the fine(s) levied upon the violator. Fines may be levied against a Home Owner's tenant, if the tenant is in violation of the Declaration, By-Laws or the Rules or Regulations of the Association or any Condominium regime subject to this Declaration, and the Home Owner shall be jointly and severally liable with his or her tenant (if permitted) for the payment of same. In the event the Association institutes legal action

for the collection of any fines or the enforcement of any of the provisions of the Declaration, By-Laws and/or rules and regulations of the Association or any Condominium regime subject to this Declaration, then the Defendant shall be responsible for payment of reasonable attorney's fees of the Association plus interest and costs of suit.

Section 4. Right to Change Rules and Regulations

- (a) The Board of Directors shall have the power to amend, modify or repeal these Rules and Regulations and to make such additional Rules and Regulations as may be necessary to carry out the intent of these Rules and Regulations without obtaining the approval, consent or signature of the Members of the Association and shall have the right to bring lawsuits to enforce the Rules and Regulations promulgated by it.
- (b) The Board of Directors of the Association shall have the right to promulgate rules and regulations regarding the transfer, assignment or rental of the Outdoor Parking Spaces. In no event shall the Board of Directors have the right to prohibit the right of a Home Owner or the Sponsor to transfer, assign or rent an Outdoor Parking Space as a Limited Common Element or subject to a License Agreement or subject to a rental.
- (c) Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Board of Directors. Further, any such consent or approval may, in the discretion of the Board of Directors or the Managing Agent, be conditional in nature.
- (d) The Board of Directors reserves the right to rescind, alter, amend, waive or add, as to one or more or all Home Owners, occupants, lessees, guests and any other person residing in the Home, any Rule or Regulation at any time prescribed for the Association when, in the reasonable judgment of the Board of Directors, the Board of Directors deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Association, or the preservation of good order therein, or for the operation or maintenance of the Association or the equipment thereof, or the comfort of Home Owners, occupants or others in the Association. No rescission, alteration, amendment, waiver or addition of any Rule and Regulation in respect of one Home Owner or other occupant will operate as a rescission, alteration or waiver in respect of any other Home Owner or other occupant.

Section 5. Sponsor

The foregoing provisions shall not apply to Sponsor unless required: (a) to comply with applicable municipal laws or regulations, or (b) to remedy any notice of violation.

In the event it becomes necessary for Sponsor and/or the Board of Directors to enforce any provisions of the Declaration, the By-Laws, Rules and Regulations against a Home Owner, such Home Owner, tenant, guest, or occupant will be required to reimburse Developer or the Board of Directors for any costs incurred in connection herewith, including reasonable attorneys fees, interest and costs of suit. The Home Owner shall at all times be and remain responsible for the Home Owners' Tenant's actions or omissions.

ARTICLE XVII. GENERAL PROVISIONS

Section 1. Fiscal Year.

The fiscal year of the Association shall be fixed by resolution of the Board of Directors and unless otherwise specified shall be based on the calendar year.

Section 2. Seal.

The Association seal shall have inscribed thereon the name of the Association and the year of its incorporation under the laws of the State of New York. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced.

Section 3. Architectural Control.

No building, deck, patio, fence, wall, statuary, sign or other structure located on the Properties, or change or alternation to the interior of any Home in Powell Cove Estates Condominium I and any Condominium located in subsequent Phases, which shall affect the structural soundness of the Building the Home is located in or change in or to the landscaping or change in or to color or design of the exterior of a Home shall be commenced, erected, replaced, repaired or maintained upon The Properties (including all Condominium regimes subject to the Declaration), nor shall any exterior addition to, or change or alteration to a Home, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and locations of the same shall have been submitted to, and approved in writing as to harmony of external design and location, in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board and/or the Developer. The provisions of this paragraph shall not apply to the Developer. A two-thirds (2/3rds)

majority of a quorum of the Board or Architectural Committee shall be required for approval of all of the above items.

The make-up and procedures applicable to an Architectural Committee is as follows:

(a) Members of Architectural Committee. The Architectural Committee shall consist of three (3) members; provided, however that such number may be increased or decreased by resolution of the Board. The Architectural Committee shall be initially composed of three (3) persons, each of whom shall be a representative of Developer. After the first annual meeting of the Association at least one (1) member of the Architectural Committee shall be a Home Owner in the Development (other than a representative of Developer).

(b) Rights of Appointment.

(1) By Developer. Developer shall have the right to appoint a majority of the members of the Architectural Committee until the last Home in all Phases of the Development has Closed Title.

(2) By the Board. The Board shall have the right to appoint those members of the Architectural Committee which Developer is not authorized to appoint until such time as Developer's rights of appointment have expired, and thereafter the Board shall have the right to appoint and remove all members of the Architectural Committee. Architectural Committee members appointed by the Board shall serve for a term of one (1) year or until their respective successors are appointed.

(3) Notice of Appointment. Whenever an Architectural Committee member is appointed or removed while both Developer and the Board have rights of appointment, written notice of such appointment or removal shall be given by the appointing party to the other party.

(c) Plans and Specifications. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and description or samples of exterior material and colors prepared by a licensed professional engineer or registered architect. Until receipt by the Architectural Committee of any required plans and specifications, the Architectural Committee may postpone review of any plan submitted for approval. Decisions of the Architectural Committee and the reasons therefore shall be transmitted by the Architectural Committee to the Applicant at the address set forth in the application for approval, within sixty (60) days after receipt by the Architectural Committee of all materials required by the Architectural Committee. Any application submitted pursuant to this Section shall be deemed approved, unless written denial or a request for additional information or

materials by the Architectural Committee shall have been transmitted to the Applicant within sixty (60) days after the date of receipt by the Architectural Committee of the Applicant's most recent submission.

(d) Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(1) The Architectural Committee or its duly authorized representative may at any time inspect any work for which approval of plans is required under this Section 3. However, the Architectural Committee's right of inspection of the work for which plans have been submitted and approved shall terminate sixty (60) days after the work has been completed and the respective Home Owner has given written notice to the Architectural Committee of its completion. The Architectural Committee's rights of inspection shall not terminate pursuant to this paragraph if plans for the work have not previously been submitted to and approved by the Architectural Committee. If, as a result of such inspection, the Architectural Committee finds that the work was done without obtaining approval of the plans therefore or was not done in substantial compliance with the plans approved by the Architectural Committee, it shall notify the Home Owner in writing of his or her failure to comply with this Section within sixty (60) days from the inspection, specifying the particulars of noncompliance. The Architectural Committee shall have the authority to require the Home Owner to take such action as may be necessary to remedy the noncompliance.

(2) If upon the expiration of sixty (60) days from the date of such notification, the Home Owner has failed to remedy the noncompliance, the Architectural Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Home Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Home Owner. If the Home Owner does not comply with the Board ruling within that period, the Board, at its option, may take whatever action it may have at law, in equity or in the Declaration or By-Laws including, without limitation, correcting or removing the non-compliance and charging the cost of all necessary work to correct or remove the noncompliance and all reasonable legal fees to the Home Owner as an additional Common Expense.

(e) Common Elements. In addition to the requirements contained in the Architectural Control Provisions in Section 3 above, a Home Owner may not make any alterations or changes to any part of the Common Elements of any Condominium regime subject to the Declaration nor may any structure, decoration or other improvement (including landscaping) be built or placed on any portion of the Common Elements or Limited Common Elements without the written consent of the Board of Directors. Further, no Home Owner shall make any structural addition, alteration or improvement (of either a temporary or permanent nature) in or to his or her Home, or

any Limited Common Element, without the prior written approval of the Board of Directors. The Board of Directors shall have the obligation to answer any written request by a Home Owner for approval of a proposed structural addition, alteration or improvement in such Home Owner's Home within sixty (60) days after such request is received, and failure to do so within the stipulated time shall constitute an approval by the Board of Directors of the proposed addition, alteration or improvement.

(f) Additional Requirements. No Home Owner will make any change pursuant to this Article XVII, Section 3 in or to the Properties, any Home or any Limited Common Element without first (i) obtaining and maintaining during the course of such work such insurance as the Board of Directors may reasonably prescribe and providing the Board with a certificate of insurance prior to the commencement of the work, (ii) executing and delivering to the Board of Directors an agreement, in form and substance reasonably satisfactory to the Board of Directors, setting forth the reasonable terms and conditions under which such alteration, addition or improvement may be made, including, without limitation, the days and hours during which any such work may be done, (iii) executing and delivering to the Board of Directors an agreement indemnifying and holding harmless the Board of Directors, its members and officers, and all Home Owners from and against any liability, cost or expense arising out of or connected to such work and (iv) obtaining all approvals as necessary from the City of New York or any other municipal or governmental agency. In the event the Board of Directors chooses to have the proposed addition, alteration or improvement reviewed by an independent architect or engineer, the Home Owner shall pay the charges of such architect or engineer. The Home Owner shall also bear the cost of any increased taxes or insurance premiums resulting from his or her alterations, additions or improvements.

(g) Governmental Applications. Any application made to any department of the City of New York or any other governmental or municipal authority for a permit to make an addition, alteration or improvement in or to any Home shall be completed by the Home Owner and executed by the Board of Directors only, without however, incurring any liability on the part of the Board of Directors or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom.

(h) Developer. These provisions of Article XVII, Section 3 shall not apply to Homes owned by the Developer or its designee until such Homes shall have been initially conveyed by the Developer or such designee to a Home Owner.

Section 4. Outdoor Parking Spaces

(a) General

Pursuant to the provisions of the Declarations of Condominium for each of the Condominiums subject to this Declaration, the Association shall be required to keep a

list of all Outdoor Parking Spaces and the Homes that they are assigned to as Limited Common Elements of each Condominium or which are subject to a License Agreement or subject to a rental. All Home Owners subject to this Declaration shall be required to advise the Board of Directors of the Association of any sale or transfer of any Outdoor Parking Space as a Limited Common Element or pursuant to a License Agreement or subject to any rental within 30 days of such sale, transfer or rental. The Board of Directors shall be required to amend the Schedule of the Declaration of Condominium of the respective Condominium as necessary. All costs and expenses associated with such amendment shall be the responsibility of the Home Owner assigning or transferring the Outdoor Parking Space.

(b) Use

Outdoor Parking Spaces may only be utilized pursuant to the provisions of the Declaration of Condominium of each Condominium regime that is subject to this Declaration.

(c) Repair and Maintenance

All repairs, maintenance and replacement of the Outdoor Parking Spaces shall be the responsibility of the Association and all costs associated therewith shall be included in the Common Maintenance Charges of the Association.

(d) License Agreement

The Sponsor shall be authorized to execute all License Agreements on behalf of each Condominium subject to the Declaration of Covenants and Restrictions and/or the Association for any Home that the Sponsor sells to a Home Owner and to receive the proceeds of such License Agreement. Thereafter all aspects of the reassignment of an Outdoor Parking Space pursuant to a License Agreement shall be the responsibility of the Association.

(e) Rules and Regulations

The Board of Directors of the Association shall have the right to promulgate rules and regulations regarding the transfer, assignment or rental of the Outdoor Parking Spaces. In no event shall the Board of Directors have the right to prohibit the right of a Home Owner or the Sponsor to transfer, assign or rent an Outdoor Parking Space as a Limited Common Element or subject the Outdoor Parking Space to a License Agreement or subject the Outdoor Parking Space to a rental. The Board of Directors shall have the right to approve the form of a License Agreement or promulgate a standard form for use by all Home Owners.

Section 5. Examination of Books and Records.

Any Member who shall have been a Member of the Association for at least six (6) months preceding the Member's demand, upon at least five (5) days written demand shall have the right to examine in person or by agent or attorney, during usual business hours, the books and records and to make copies therefrom at their cost. Such

inspection may be denied to such Member or other person upon the Member's refusal to furnish to the Board of Directors an affidavit that such inspection is not desired and will not be used for a purpose which is in the interest of a business or object other than the business of the Association and that the Member has not within five (5) years given, sold or offered for sale any list or record of Members of any domestic or foreign corporation or aided and abetted, or attempted or offered to aid or abet, any person in procuring any such list or record of Members for any such purpose.

Section 6. Construction.

Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, whenever the context so requires.

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

Section 7. Declaration Required by New York City Planning Commission.

The Association Property and Association are subject to all of the terms and conditions contained in the Declaration dated September 11, 2006 recorded in the New York City Registrar's Office CRFN 200600638840. Pursuant to said Declaration Lot 108 will include certain Common Open Spaces which shall include the Public Access Area located therein. The Public Access Area shall include a public promenade, access area and public park. The Declaration further provides that the Public Access Area shall be open to both residents of Powell Cove Estates and non-residents alike, on a non-discriminatory basis and the improvements therein shall be maintained, repaired and replaced as necessary by the Association.

Section 8. Severability.

Should any of the covenants, terms or provisions herein imposed be or become unenforceable at law or in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.