

**D R A F T**

**OLD BARN ESTATES**

**HOMEOWNERS ASSOCIATION**

**BYLAWS**

**ARTICLE I**

Section 1. “Association” shall mean and refer to Old Barn Estates Homeowners Association, a non-stock, nonprofit corporation organized and existing under the laws of the State of Maine.

Section 2. “Old Barn Estates” shall mean and refer to a subdivision of land in the City of Portland and Town of Falmouth, County of Cumberland and State of Maine and described in a plan entitled \_\_\_\_\_ to be recorded in the Cumberland County Registry of Deeds (hereinafter referred to as “the Plan”).

Section 3. “Member” shall mean and refer to each owner (whether an individual person, corporation, partnership or other legal entity) of record of said lots as shown on the aforesaid Plan, but shall not mean and refer to an owner of record whose only interest in such lot or parcel of land is as mortgagee under a real estate mortgage as security for the performance of an obligation, until and unless such owner shall have commenced proceedings under the laws of the State of Maine to foreclose such mortgage and shall have delivered a certificate to the office of the Secretary of the Association.

**ARTICLE II**

Location

The principal office of the Association shall be located in the City of Portland, in the County of Cumberland and the State of Maine.

**ARTICLE III**

Membership and Voting Rights

Each owner of a lot as designated in Article I, Section 3 shall be a Member of the Association. However, each lot is allocated only one (1) vote regardless of whether the owner of the lot is one or more individuals, a corporation, partnership or other legal entity.

**ARTICLE IV**

## Purpose and Financing of Association

Section 1.     Purpose: The Association shall be responsible for the following:

- a.     the care, control and maintenance of all common areas,
- b.     the maintenance of all stormwater system components according to the “Inspection and Maintenance Plan for Stormwater Management Facilities”, as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, a copy of said Plan is attached hereto and incorporated by reference, and shall include those components situated on Lots 2, 8, and 9 and depicted on the Plan.
- c.     care, maintenance and necessary replacement of the trees along Ice Pond Drive.
- d.     care, maintenance and necessary replacement of buffer trees situated on Lots 2, 9 and Open Space (Lot\_\_\_).

Section 2.     Financing: Each Member is obligated to pay to the Association, annual and special assessments. Assessments are personal obligations of the members and may be secured by liens against the land of each lot owner. If the assessments are not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum, and the Association may bring an action at law against the member personally obligated to pay the same and shall be entitled to recover interest, costs and reasonable attorney’s fees.

## **ARTICLE V**

### Members

Section 1.     Annual Meetings: The first annual meeting of the Members shall be held within one (1) year from the date of the sale of the first lot in the Old Barn Estates Subdivision. The Members shall at that meeting select a date and time for the second and subsequent annual meetings.

Section 2.     Parliamentary Procedure: At all meetings of the Members or of the Board of Directors, Roberts’ Rule of Order, as then amended, shall be followed, except in the event of conflict in which case these Bylaws shall prevail.

Section 3.     Proxies: Votes may be cast in person or by proxy. Proxies must be filed with the Secretary at or before the time of each meeting. A Member or Director may designate any person who need not be an owner to act as proxy. The designation of any such proxy shall be made in writing, signed by the Member or Director and shall be revocable at any time by written notice to the Secretary by the person designating the proxy.

Section 4. Special Meetings: Special meetings of the Members may be called at any time by the President, the Board of Directors or upon the written request of at least three (3) members who are entitled to vote.

Section 5. Notice of Meetings: Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person duly authorized to call the meeting, by mailing a copy of such notice postage prepaid or by facsimile or electronic mail at least ten (10) days before such meeting to each Member entitled to vote there at, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, date and hour of the meeting and in the case of a special meeting, the purpose of the meeting.

Section 6. Quorum: The presence at the meeting of Members entitled to vote or proxies equal to seven (7) votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation or these Bylaws. If however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time without notice, other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

## **ARTICLE VI**

### **Board of Directors**

Section 1. Board of Directors: The affairs of the Association shall be governed by a Board of Directors consisting of three (3) Directors who need not be Members of the Association and who shall hold office until the election of their successors.

Section 2. Term of Office: At the first annual meeting, the Members shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years. At each annual meeting thereafter, the Members shall elect those Directors whose terms are expiring for a term of two (2) years.

Section 3. Resignation: In the event of the death, resignation or removal of a Director, his successor shall be elected by the remaining Directors and shall serve the unexpired term of his predecessor. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association.

Section 4. Quorum: A majority of the Directors shall constitute a quorum for the transaction of business. Every action or decision made by a majority of the Board of Directors present at a duly held meeting in which a quorum is present shall be regarded as the act of the Board.

Section 5. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things except those which by law or by these Bylaws may not be delegated to the Board of

Directors by the Members. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- a. Management, maintenance and control all common areas,
- b. Maintenance of all stormwater system components according to the “Inspection and Maintenance Plan for Stormwater Management Facilities”, as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, a copy of said Plan is attached hereto and incorporated by reference, and shall include those components situated on Lots 2, 8, and 9 and depicted on the Plan.
- c. The care, maintenance and necessary replacement of the trees along Ice Pond Drive.
- d. The care, maintenance and necessary replacement of buffer trees situated on Lots 2, 9 and Open Space (Lot\_\_\_).
- e. Adoption and amendment of reasonable rules and regulations governing the use of the common areas.
- f. Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- g. Suspend the voting rights of any member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Default shall be defined as that period commencing thirty (30) days following the date on which the assessment is due.
- h. To enforce covenants, conditions and restrictions stated in the Declaration of Restrictions and Covenants of the Old Barn Estates Subdivision recorded in the Cumberland County Registry of Deeds in Book \_\_\_\_, Page \_\_\_\_ and any amendments thereto.
- i. Declare the office of a Director to be vacant in the event that such Director shall be absent from three (3) consecutive regular meetings of the Board of Directors.
- j. To maintain an adequate liability insurance policy to protect the various lot owners and Association from liability in an amount not less than One Million Dollars (\$1,000,000.00).
- k. Cause to be kept a complete record of all acts of the Board of Directors and to present a statement thereof to the Members at the annual meeting of Members, or at any special meeting requested in writing by five (5) of the Members who are entitled to vote.
- l. To fix the amount of the annual assessment against each lot at least thirty (30)

days in advance of each annual assessment and to send written notice of such assessment to every owner thirty (30) days in advance of the date by which such assessment is due and payable.

m. To file a lien with the Cumberland County Registry of Deeds against the land of any Member whose assessment has not been paid within forty-five (45) days of the date such assessment or special assessment is due.

n. To bring an action at law against the owner personally obligated to pay the assessment and to collect the assessment or special assessment, costs of collection, interest and reasonable attorney's fees.

o. Unless sooner transferred by the Declarant/Developer, upon the sale of the last lot in the subdivision by the Declarant/Developer, the Association shall assume all of the duties set forth above within the Old Barn Estates Subdivision. The Association further recognizes that the Declarant shall thereafter be under no obligation to assert any rights or have any duties or obligations assigned, transferred, or conveyed to the Association.

p. Upon request by the Code Enforcement Officer, Plumbing Inspector, or Town Engineer, the Old Barn Estates Homeowners Association shall produce for inspection and copying at the Falmouth Town Hall, or the City of Portland as the case may be, or permit the inspection and copying at its own office of any or all of its corporate, financial, operating, inspection, and maintenance records, reports, contracts, budgets and other papers, for the purpose of determining its performance of any compliance with the requirements Stormwater Plan and Tree Maintenance and Buffering Plan.

The Code Enforcement Officer, the Plumbing Inspector, or his authorized representative, or the Town Engineer, and other duly authorized employees of the City/Town bearing proper credentials or identification, shall be permitted to enter at all reasonable times, upon all real or personal property of the Association necessary to the verification of compliance with the Association's responsibilities.

Section 6. Regular Meetings: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Members of the Board of Directors, but at least one (1) such meeting shall be held during each fiscal year to elect the offices of the Association and to transact such other business as may be necessary. Notice of regular meetings of the Board of Directors shall be given to each Member of the Board of Directors, by mail, telephone, facsimile, or electronic mail, at least five (5) business days prior to the day stated for such meeting.

Section 7. Special Meetings: Special meetings of the Board of Directors may be called by the President on three (3) business days notice to each Member of the Board of Directors given by telephone, facsimile, or electronic mail, or on five (5) business days notice given by ordinary first-class mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary

in like manner and on like notice on the written request of at least two (2) Members of the Board of Directors.

Section 8. Waiver of Notice: Any Member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and the place thereof. If all the Members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 9. Informal Action by Board of Directors: Any action required to be taken at a meeting of the Board of Directors or any other action which may be taken at a meeting of the board of Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members of the Board of Directors entitled to vote with respect to the subject matter thereof.

Section 10. Compensation: No Member of the Board of Directors shall receive any compensation from the Association for acting as a Director, except that Members of the Board of Directors may be reimbursed for expenses they incur in connection with their services of Directors, as the Board may from time to time determine.

Section 11. Fiscal Year: The fiscal year for the Association shall be the calendar year.

## **ARTICLE VII**

### Officers

Section 1. Designation: The principal officers of the Association shall be the President, the Secretary/Clerk and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint such other officers as in its judgment may be necessary.

Section 2. Election of Officers: The offices of the Association shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers: Upon the affirmative vote of a majority of the Members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor may be elected at any regular meeting of the Board of Directors or any special meeting of the Board of Directors called for that purpose.

Section 4. President: The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and the Board of Directors. He shall have all of the general powers and duties which are incident to the office of the President of a non-profit corporation organized under the laws of the State of Maine, including, but not

limited to the power to appoint committees from among the Members and, from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Secretary/Clerk (Registered Agent): The Secretary/Clerk (Registered Agent) shall keep the minutes of all meetings of the Members and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary/Clerk as a non-profit corporation organized under the laws of the State of Maine.

Section 6. Treasurer: The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Association, in such depositories as may from time to time be designated by the Board of Directors, and he shall in general, perform all the duties incident to the Office of Treasurer of a non-profit corporation organized under the laws of the State of Maine.

Section 7. Agreements, Contracts, Checks, etc.: All agreements, contracts, checks and other instruments of the Association shall be executed by two officers of the Association or by such other person or persons as may be designated by the Board of Directors.

Section 8. Compensation of Officers: No officer shall receive any compensation from the Association for acting as such, except that officers may be reimbursed for expenses incurred by them for their services as officers of the Association, as the Board of Directors may from time to time determine.

## **ARTICLE VIII**

### Records

Section 1. Records and Audits: The Board of Directors or its agent shall keep detailed records of the actions of the Board of Directors and its agents, minutes of the meeting of the Board of Directors and financial records and books of accounts for the Association.

Section 2. Statement: A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Members at least annually.

## **ARTICLE IX**

### Miscellaneous

Section 1. Notices: All notices hereunder shall be sent registered or certified mail to the Board of Directors, in care of the President, to the office of the Board of Directors or to such other address as the Board of Directors may hereafter designate from time to time by notice in writing to all Members. All notices to any lot owner shall be sent by ordinary prepaid mail to the

address or to such other address as may have been designated by them from time to time, in writing to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

## **ARTICLE X**

### **Amendments to Bylaws**

These Bylaws may be altered, amended or added to, at any duly called meeting of Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendments; and (2) that the amendment shall be approved by at least eight (8) of the total votes of the Association. However, so long as the Association remains responsible for the operation and maintenance of the drainage systems and devices, common areas and tree buffers of Old Barn Estates, Subdivision, no action shall be taken by the Members to dissolve this Association.

DATE: