

**FIRST AMENDED BYLAWS
OF
VILLAGE GARDENS HOMEOWNERS ASSOCIATION**

The Board of Directors of the Village Gardens Homeowners Association, a nonprofit corporation incorporated pursuant to the Nebraska Nonprofit Corporation Act, hereby adopts the following Bylaws:

**ARTICLE I
NAME AND LOCATION**

The name of the corporation is Village Gardens Homeowners Association ("Association"). The principal office of the Association shall be located at 5625 Pine Lake Road, 68516, but meetings of Members and Directors may be held at such places within the State of Nebraska, County of Lancaster, as may be designated by the Board of Directors. The location of the principal office may be altered by the Board of Directors.

**ARTICLE II
DEFINITIONS**

All terms as used in these Bylaws shall, unless stated otherwise, be defined as set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Village Gardens, Article I, Definitions, recorded with the Lancaster County Register of Deeds Office on October 28, 2005, as Instrument No. 2005-064209 ("Declaration") and any amendments thereto:

"Apartment Property" shall mean the real property designated as Type G Lots on Exhibit "A" which is attached hereto and incorporated herein by this reference.

"Association Expenses" shall mean and include the actual and estimated expenses of operating the Association, both for general and neighborhood purposes, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board of Directors of the Association pursuant to the Declaration and the Association's By-Laws and Articles of Incorporation.

"Board of Directors" or "Board" shall mean the governing body of the Association.

"Builder" shall mean and refer to any person undertaking the construction of an Improvement on a Lot within the Properties for the purpose of selling same. All builders shall also be a member of the Village Gardens Approved Builder Team or otherwise approved by the Association.

“Bungalow/Cottage” shall mean the real property designated as type B/C and consists of several individual lots with a common area in the center of the lots in Village Gardens.

“Common Areas” shall mean the real property designated as Outlots by plat or otherwise in Village Gardens and including all private roadways, water features, and other improvements or green areas located thereon.

“Exclusive Common Areas” shall mean and refer to the property and facilities which by plat or otherwise are restricted solely for the use by specific Lot Owners or Members, including but not limited to the real property legally described as Village Gardens Addition Outlot K, which property and facilities may be maintained by the Association at the expense of such Lot Owners or Members specifically benefiting therefrom.

“Exempt Transfer” shall mean a sale or transfer of title or interest to a Lot: (i) by Declarant; (ii) by a Builder; (iii) by a co-Lot Owner to anyone who was a co-Lot Owner immediately prior to such transfer; (iv) to the Lot Owner’s estate, surviving spouse, or child upon the death of the Lot Owner; (v) to any entity wholly owned by the grantor; (vi) to a Mortgagee or the designee of a Mortgagee in lieu of foreclosure or upon foreclosure of a Mortgage; or (vii) to an interim Lot Owner in connection with an employer relocation agreement.

“Gross Selling Price” shall mean the total cost to the purchaser of a Lot as indicated on the title company’s closing statement or other similar document.

“Improvement” shall mean a permanent addition to or modification of a structure on a Lot, not including landscaping plants and maintenance and distinguished from an ordinary repair.

“Lot Development Plan” shall mean a group of written plans for development and construction of a Lot or Improvement upon a Lot pursuant to *Article II, Section 2* of the Declaration and the Village Gardens Architectural Standards.

“Lot Owner” shall mean the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding, however, those parties having any interest in any of such Lots merely as security for the performance of any obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgage). The purchaser of a Lot under land contract or similar instrument shall be considered to be the “Lot Owner” for purposes of the Declaration, the Association Articles and these Bylaws.

“Multi-family Mansion Property” shall mean the real property designated as Type F Lots in Village Gardens.

“Party Walls” shall mean each wall, including common garage walls, common fences, common walls of attached Dwelling Units, and roofs which are placed on or span over the dividing line between the Lots.

“Residential Property” shall mean the real property designated as Type A, B, B/C, C, D, E, F and G Lots in Village Gardens.

“Rowhouse” shall mean an attached Single-family Residence on individual platted Lots sharing a common wall with one or more adjacent Dwelling Units.

“Rowhouse Property” shall mean the real property designated as Type A Lots in Village Gardens.

“Secondary Dwelling Unit” shall mean a Dwelling Unit in addition to the Single-family Residence located on the same Lot, and either contained within the Residence or within an accessory building to the rear of the Residence.

“Single-family Residential Property” shall mean the real property designated as Type B/C, C, D and E Lots in Village Gardens.

“Townhouse Property” shall mean the real property designated as Type B Lots in Village Gardens.

“Village Gardens Architectural Committee” or “VGAC” shall mean a review committee established at the sole discretion of the Declarant and/or the Association which shall be responsible for the review and approval of all Lot Development Plans and the review and approval of any other plans requiring compliance with the Village Gardens Architectural Standards.

“Village Gardens Architectural Standards” or “VGAS” shall mean and refer to the written standards, as amended from time to time, for the construction of Improvements, structures, appurtenances, and landscaping on the Lots within the jurisdiction of the Association, which standards are adopted by the VGAC pursuant to the Declaration and incorporated therein. The VGAS may impose different requirements for different portions of the Properties. The VGAS shall be on file and available for inspection from the Association.

ARTICLE III **PURPOSE**

The purpose of the Association shall be as set forth in the Declaration, *Article IV, Section 1*, and any amendments or addendums thereto. The Association shall have as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Residential Property and the Common Areas, including:

Section 1. Common Area Maintenance. The acquisition, construction, improvement, maintenance, operation, repair, upkeep, replacement and administration of the Common Areas for the use, benefit and enjoyment of all the Members, including but not limited to: Alleys; parks; playground equipment (including upsizing); water features; shore lines; pump stations; irrigation systems; dams; dam overflows, forebays, piping, fuse plugs and emergency spillways; and any other Common Area structure or property. The Common Areas may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property covered by an Annexation Agreement or Agreements entered into between Declarant and/or Village Gardens LLC and the City of Lincoln.

Section 2. Enforcement of Rules and Regulations. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of the Common Areas. The rules and regulations may permit or restrict use of the Common Areas by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Areas.

Section 3. Promotion of the Residential Character. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Village Gardens; and the protection, maintenance and enhancement of the residential character of the Residential Property.

ARTICLE IV **MEMBERSHIP**

Section 1. Membership and Voting. The Membership and Voting Rights of the Association Members shall be as defined in the Articles, *Article VII, Membership*; and *Article VIII, Voting Rights*. Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of each Lot and ownership of a Lot shall be the sole qualification for membership. The Association shall have two (2) classes of membership, Class A and Class B, as follows:

Section 1.1 Class A Members. Class A Members shall be all Lot Owners with the exception of the Class B Members. Class A Members shall be entitled to one (1) vote for each Lot of which they are the Owner on each matter coming before the Members of the Association.

Section 1.2 Class B Members. Class B Members shall be the Declarant who shall have ten (10) votes for each Lot of which it is the Owner on each matter coming before the Members of the Association. Declarant shall also have the power to veto any matter coming before the Members of the Association.

Class B Membership shall cease and be converted to Class A Membership upon the earlier of—

(i) the date on which the Declarant has sold and conveyed all of the Lots it owns in the Properties, or

(ii) on such earlier date that the Declarant, in its sole discretion, so determines and records an instrument to such effect in the real property records of Lancaster County, Nebraska. From and after the termination of the Class B Membership, the Declarant shall be deemed to be a Class A Member with respect to the Lots then owned, if any.

Section 2. Rights of All Members. Each Member of the Association shall have the right to use and enjoy the Common Areas and shall have a nonexclusive easement over and upon the Common Areas for the use and enjoyment thereof, which shall be appurtenant to and shall pass with the interest requisite for membership held by such Member; provided, however, that no Lot Owner shall construct any structures or Improvements within the Common Areas without the prior written consent of the Association. The rights of the Members of the Association in and upon the Common Areas shall be subject to the following:

Section 2.1 Easements. All easements shown upon any final plat of any portion of the Residential Property recorded with the Register of Deeds of Lancaster County, Nebraska;

Section 2.2 Rules Promulgation. The right of the Association to promulgate rules and regulations for the reasonable use and enjoyment of the Common Areas and the right of the Association, as provided in its Articles and Bylaws.

Section 2.3 Dedication. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility, and subject to such conditions as may be agreed to by the Members; provided, however, that any such dedication or transfer shall be approved by a majority vote of all votes entitled to be cast by those Members in attendance at a regular or special meeting of the Members, provided notice of the proposed dedication or transfer was contained in the notice of such meeting;

Section 2.4 Public Access. The use of the roadways, streets, and alleys located within the Common Areas by the general public pursuant to any public access easement granted or to be granted by Declarant; Members' use of the Common Areas, including 60th Street and the parking lot adjacent to Trinity United

Methodist Church, shall be subject to any rights granted to Trinity United Methodist Church; and

Section 2.5. Exclusive Commons. The right of the Association to restrict access to the Exclusive Common Areas solely for the use by specific Lot Owners or Members which property and facilities may be maintained by the Association at the expense of such Lot Owners or Member specifically benefiting therefrom.

ARTICLE V **MEETINGS**

Section 1. Place of Meetings. All meetings of Members shall be held at the offices of the Association or at a place designated by the Board.

Section 2. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held on the third Thursday in February at a time and place convenient to the Membership.

Section 3. Special Meetings. Special meetings of the Members may be called at any time by the President, a majority of the Board, or upon written request of the Members who are entitled to vote constituting one-fourth (1/4) of all the votes entitled to be cast by the Membership. The request for a special meeting shall state the purpose of said meeting.

Section 4. Notice of Meetings. Written or electronic notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, sending a copy of such notice not less than fourteen (14) calendar days nor more than forty-five (45) calendar days before such meeting to each Member entitled to vote at the meeting, to the Member's address or email address last appearing on the books of the Association, or supplied by the Member to the Association for the purpose of notice. The notice shall specify the place, day, and hour of the meeting, and, the purpose of the meeting.

Section 5. Quorum. The quorum requirements shall be as follows:

Section 5.1. Ten Percent. The presence at the meeting, in person or by proxy, of ten percent (10%) of the votes entitled to be cast on a matter coming before the Members must be represented at a meeting of Members to constitute a quorum on that matter.

Section 5.2. Decrease or Increase Quorum. A Bylaw amendment to decrease or increase the quorum required for any Member action may be approved by a majority of all the votes entitled to be cast by the Members.

Section 5.3. One-Third. Unless one-third (1/3) or more of the votes entitled to be cast are present in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of the Members are those matters that are described in the meeting notice.

Section 6. Proxies. At all meetings of Members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary three (3) days prior to any meeting. All proxies will specify the date of the meeting(s) for which the proxy is valid. Unless specifically limited on the face of the proxy, the proxy shall be valid for any action coming before the respective meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot.

Section 7. Consent of Absentees. The transaction of any business at any meeting of Members, either annual or special, duly called and noticed, shall be valid if a quorum is present either in person or by proxy. All approvals shall be filed with the records of the Association or made a part of the minutes of the meeting.

Section 8. Conduct. The rules contained in Robert's Rules of Order Revised shall govern the meetings of the Association in all cases to which they are applicable and in which they are not inconsistent with these Bylaws.

ARTICLE VI **DIRECTORS**

Section 1. Number of Directors. The affairs of this Association shall be managed by a Board of Directors ("Board"). The Board shall consist of no fewer than three (3) and no greater than seven (7) Directors. The number of Directors on the Board may be increased or decreased from time to time by a majority of the votes entitled to be cast by the Members in attendance at any properly called annual or special meeting. At no time shall the total number of Directors on the Board exceed ten percent (10%) of the number of Lots constituting the Properties within the Association. At least one-third (1/3) of the Directors shall also be Members of the Association. All Directors shall be individuals.

Section 2. Term of Office. At an annual meeting, the Members shall elect the Directors for terms of three years. Directors may be elected for successive terms and shall not be subject to term limits. The election of some of the Directors in 2018 may be for a term of less than three years, so as to establish a staggered terms of Directors.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a two-thirds (2/3) vote of the votes entitled to be cast by the Members or a vote equal to that which elected the Director sought to be removed, whichever is greater. A majority vote of the Board may remove any Director from the Board for cause, including but not limited to declaring the office of a Director to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board.

Section 4. Vacancies. In the event of death, resignation, or removal of a Director, his/her successor shall be selected and appointed by the remaining Directors of the Board and shall serve for the unexpired term of his/her predecessor. In the alternative, the Board may call a special meeting for the purpose of selecting a successor Director and submit the matter to a vote of the Members.

Section 5. Compensation. No Director shall receive compensation for any service the Director may render to the Association in the capacity as a Director. However, any Director may be reimbursed for actual expenses incurred in the performance of the duties of a Director. A Director may serve the Association in any other capacity and receive fair and reasonable compensation.

Section 6. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 7. Nomination. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, and one or more Members of the Association. Members of the Nominating Committee shall not also be Members of the Board. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 8. Election. Election to the Board shall be by secret written ballot or by voice vote. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 9. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business but in no event shall a quorum of fewer than the greater of one third (1/3) of the number of Directors in office or two (2) Directors. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 10. Regular Meetings. The Board shall meet immediately following the annual meeting of the Members, and no notice of the meeting shall be necessary if a quorum is present. Regular meetings of the Board shall be held periodically as necessary, with the length of time between such meetings not to exceed six (6) months. Notice of such meetings shall be made at least seven (7) calendar days in advance.

Section 11. Special Meetings. Special meetings of the Board shall be held when called by the President or by a majority vote of the Directors. Each Director shall be given, either personally, electronically, or by mail notice of the meeting at least three (3) calendar days prior to the meeting.

Section 12. Emergency Meetings. When natural disasters, calamities, or catastrophes occur, the Board shall be authorized to meet with reasonable notice and in a manner reasonable under the circumstances to protect the interests of the Association in reaction to the emergency.

ARTICLE VII **POWERS AND DUTIES OF THE BOARD AND ASSESSMENTS**

Section 1. General Powers. The Association shall have all the powers conferred upon nonprofit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the officers, shall include but not be limited to the following:

Section 1.1. Common Areas. The acquisition, construction, improvement, maintenance, operation, repair, upkeep, replacement and administration of the Common Areas for the use, benefit and enjoyment of all the Members, including but not limited to: Alleys; parks; playground equipment (including upsizing); water features; shore lines; pump stations; irrigation systems; dams; dam overflows, forebays, piping, fuse plugs and emergency spillways; and any other Common Area structure or property. The Common Areas may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property covered by an Annexation Agreement(s).

Section 1.2. Assessments. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of the Declaration.

Section 1.3. Insurance. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for the purchase of insurance covering the Common Areas against property damage and casualty, and the purchase of liability insurance coverage for the Association, the Board of Directors, and the Members.

Section 1.4. Declaration Powers. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the

Association as set forth in the Declaration, as the same may be amended from time to time.

Section 1.5. Real and Personal Property. The acquisition, by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

Section 1.6. Investment of Funds. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

Section 1.7. Employees and Contractors. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

Section 1.8. Execution of Documents. General administration and management of the Association, and execution of such instruments and documents and the performance of such acts as may be necessary or appropriate to accomplish such administration or management.

Section 1.9. Contracts and Guaranties. The making of contracts and guaranties, incurring liabilities, borrowing money, issue, notes, bonds, and other obligations, and securing any of its obligations by mortgage or pledge of any of its property, franchises, or income.

Section 2. Suspension of Membership. The Board shall have the power to suspend the voting rights or Membership privileges of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association or during any period not to exceed thirty (30) days for any other infraction of any published rules and regulations governing the use and maintenance of the Common Areas.

Section 2.1. Fair and Reasonable Procedure. No Member may be suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith;

- (a) The procedure for suspension of voting and Member privileges will be fair and reasonable when:
 - 1) Not less than fifteen (15) days' prior written notice of the suspension and the reasons therefore; and
 - 2) An opportunity for the Member to be heard, orally or in writing, occurs not less than five (5) days before the effective date of the

suspension by the Board that the proposed suspension not take place.

- (b) Any proceeding challenging a suspension, including a proceeding in which defective notice is alleged, must be commenced within one (1) year after the effective date of the suspension; and
- (c) A Member who has been suspended may be liable to the Association for dues, Assessments, or fees as a result of obligations incurred or commitments made prior to a suspension.

Section 3. Duties. It shall be the duty of the Board to administer and order all the affairs of the Association.

3.1. Maintain Records. The Board shall maintain a complete record of all Board actions and corporate affairs and will present a statement of such actions and affairs that occurred following the previous annual meeting to the Members at each annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote.

3.2. Employees and Agents. The Board shall hire, fire and supervise all Officers, agents and employees of the Association, and see that their duties are properly performed.

3.3. Enforcement of Declaration. The Board shall take action as the Board deems appropriate to enforce any provision of the Declaration, the Village Gardens Architectural Standards, Association Articles, these Bylaws, a resolution of the Board, and/or any other rule or regulation promulgated by the Association.

Section 4. Board to Assess. The Board shall fix, levy and charge each Lot Owner with dues and Assessments not in consistent with the provisions of the Declaration, the Articles of the Association, and these Bylaws. The dues and General Assessments levied and collected by the Association shall be committed and expended to accomplish the purposes and to perform the powers and responsibilities of the Association described in the Declaration, Articles of the Association and these Bylaws. Any dues and Assessments fixed by the Board shall be payable at the time and in the manner prescribed by the Board. The judgment of the Board as to the expenditure of Assessments collected by the Association shall be final and conclusive so long as its judgment is exercised in good faith.

Section 5. Types of Assessments. Each Owner by acceptance of a deed to any Lot in the Properties, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association General Assessments, Special Assessments, Specific

Assessments, Exclusive Use Assessments, and Foundation Payments, as identified and provided for in the Declaration and these Bylaws.

Section 6. General Assessments. General Assessments shall be levied annually to enable the Association to pay Association Expenses which are determined by the Board to benefit all Members. Such expenses benefiting all Members shall be all Association Expenses except—

Section 6.1. Special Assessments which are determined by the Board to benefit a particular Lot or Lots;

Section 6.2. Expenses for which the Board makes a Specific Assessment;
and

Section 6.3. Exclusive Use Assessments.

Section 7. Commencement. The initial annual General Assessment shall commence as to all Lots covered by the Declaration or any subsequent Declaration on the date that a Lot is conveyed by the Declarant or on such later date as the Board determines, and shall be due and payable thirty (30) days thereafter. If such Assessment commences on a date other than January 1, such Assessment shall be adjusted according to the number of months remaining in the calendar year. Thereafter, annual General Assessments shall be levied for each calendar year in advance and shall be due and payable as specified by the Board.

Section 8. Special Assessments. In addition to the other Assessments authorized herein, the Board may levy one or more Special Assessments in any year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon the Common Area, including fixtures and personal property related thereto; provided, however, any such Special Assessment for capital improvements exceeding fifty-percent (50%) of the General Assessments for the current year shall be approved by the affirmative vote of a majority of the Members affected and entitled to vote on the matter who are in attendance at a regular meeting of the Members or at a special meeting of the Members, and only if notice of the Special Assessment for capital improvements is contained in the notice of the regular meeting or special meeting. In determining whether the Special Assessment exceeds 50% of the General Assessments, the Board shall obtain a written estimate for the work to be completed, including labor and materials, and shall divide that number by the total amount of the General Assessment assessed that year for the Lots to be assessed for the Special Assessment.

If a Special Assessment is approved as herein required and levied, it shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed. Special Assessments shall be allocated among all Owners in the same manner

as General Assessments unless the purpose of the Special Assessment is to provide funds only to be used for benefit of a particular Lot or Lots, in which event the Special Assessment shall be allocated solely among the Owners of the Lots benefiting therefrom. The Board shall make a good faith determination as to which Lots will be benefiting from the capital improvement and provide notice of such determination to those Lot Owners prior to or in conjunction with the notice of the meeting approving such Special Assessment.

Section 9. Exclusive Use Assessments. Exclusive Use Assessments shall be levied against the Lots of the Lot Owners who are enjoying or benefiting from the use of an Exclusive Common Area to enable the Association to pay the expenses related to the Exclusive Common Area. Upon written request by fifty-percent (50%) of the Lot Owners who are enjoying or benefiting from the use of the Exclusive Common Areas, the Board shall initiate a service or improvement benefiting only those particular Lots which shall be paid for by a Special Assessment or the Board shall discontinue a service previously provided to those Lots. The Board's decision as to which Lot Owners are enjoying or benefiting from the Exclusive Common Area shall be final if made in good faith. Expenses related to the Exclusive Common Areas may include, without limitation, costs incurred for maintenance and repair of the following items and provision of the following services or benefits which are appurtenant to the Exclusive Common Areas: operation and maintenance; landscaping; fencing; gates; fountains; water features; lighting; signs; and monuments.

Section 10. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Lot or Lots as follows:

Section 10.1. To cover the costs, including overhead and administrative costs, of providing services to Lots upon request of an Owner pursuant to any menu of special services which may be offered by the Association. Specific Assessments for special services may be levied in advance of the provision of the related service; and

Section 10.2. To cover the costs, including reasonable attorney's fees, incurred in bringing a Lot into compliance with the Declaration or the VGAS, or costs incurred by the Association as a consequence of the conduct of the Owner of a Lot, their agents, contractors, employees, licensees, invitees, or tenants.

Section 11. Abatement of Dues and Assessments. Pursuant to the Declaration, the Board may abate all or part of the dues and Assessments due in respect of any Lot or Lot Type, and shall abate all dues and Assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

Section 12. Liens and Personal Obligations for Dues and Assessments.

The dues and Assessments, together with interest thereon, costs and reasonable attorneys= fees, shall be the personal obligation of the Lot Owner at the time when the dues and Assessments first become due and payable. The dues and Assessments, together with interest thereon, costs and reasonable attorneys= fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and Assessments are charged. The personal obligation for delinquent dues and Assessments shall not pass to the successor in title to the Lot Owner at the time the dues and Assessments become delinquent unless such dues and Assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and Assessments, and shall be bound, prior to taking title, to inquire of the Association as to the amount of any unpaid dues and Assessments.

Section 13. Uniform Rate of General Assessments. General Assessments shall be fixed at a uniform rate per Lot Type, but may be abated as to individual Lots or Lot Type, as provided in the Declaration and Section 11 above.

Section 14. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and Assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, Assessment or installment thereof. The dues and Assessments shall be and become a lien as of the date such amounts first become due and payable.

Section 15. Effect of Nonpayment of Dues or Assessments; Remedies of the Association. Any installment of dues or Assessments which is not paid when due shall be delinquent. Delinquent dues or Assessments shall bear interest from the due date until paid at the rate of eighteen percent (18%) per annum or the maximum rate allowed by law, whichever is less. The Association may bring an action at law against the Lot Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy allowed by law. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys= fees incurred by the Association with respect to such action. No Lot Owner may waive or otherwise escape liability for the charge and lien provided for herein by non-use of the Common Areas or abandonment of his Lot. The mortgagee of any Lot shall have the right to cure any delinquency of a Lot Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

Section 16. Subordination of the Lien to Mortgagee. The lien of dues and Assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money

loan. Sale or transfer of any Lot shall not affect or terminate the dues and Assessment lien.

ARTICLE VIII **OFFICERS**

Section 1. Enumeration of Offices. The Officers of this Association shall be a President, Vice President, Secretary, and Treasurer. Each Officer shall be a Director of the Board. The Board may appoint other Officers as the Board deems necessary to carry out the powers and duties of the Association. Any other Officers designated by the Board need not be Directors. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 2. Election of Officers. The election of Officers by the Board shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 3. Term. Each Officer shall hold office for one (1) year unless the Officer shall sooner resign, be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect other Officers as the affairs of the Association may require, each of whom shall hold office for a specifically designated period, exercise the authority delegated to them, and perform any duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any Officer may be removed from office with or without cause by the Board. Any Officer may resign at any time giving written notice to the Board, the President or the Secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The Officer appointed to a vacancy shall serve for the remainder of the term of the Officer=s predecessor.

Section 7. Duties.

7.1. President. The President shall be the chief executive officer of the Association and preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments and may co-sign all checks and promissory notes except when such authority is expressly delegated to some other Officer or agent of the Association.

7.2. Vice President. The Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of the Vice President by the Board.

7.3. Secretary. The Secretary shall record the votes and keep the minutes of all annual meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

7.4. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual review of the Association books to be made, by either a public accountant or by two (2) non-Officer Members of the Association as determined at the Annual Meeting, at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members at the Annual Meeting.

7.5. Other Officers. Other offices created by the Board shall have those duties and responsibilities duly prescribed by the Board at the creation of the offices.

ARTICLE IX **COMMITTEES**

Section 1. Creation. The Board shall create and appoint committees as deemed appropriate and necessary for carrying out the interests and business of the Association.

Section 2. Limitations of Committees. No committee shall have the authority of the Board to amend, alter or repeal any of the Bylaws adopted hereby; elect, appoint or remove any Director or Officer of the Association; amend the Articles of Incorporation; adopt any plan of merger or consolidation with any other Association; authorize the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the Association; authorize the voluntary dissolution of the Association or revoke such proceedings thereof; adopt a plan of distribution of the assets of the Association; or amend, alter or repeal any resolution of the Board unless said resolution specifically allows such committee to do so. The designation or appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual Director of any responsibility imposed upon such Director by law, these Bylaws or the Articles.

Section 3. Nominating Committee. The Nominating Committee shall consist of at least two (2) committee members, two of which must also be Members of the Association. The committee shall nominate new Directors and present a slate for approval to the Board in advance of the annual meeting, in accordance with *Article VI, section 7* of these Bylaws.

ARTICLE X **BOOKS, RECORDS AND FINANCIAL REPORTS**

Section 1. Inspection of Records. Current copies of the books, records and financial statements of the Association shall be available for inspection by Members at all reasonable times. The Membership register, including mailing addresses and telephone numbers, books of account, and minutes of meetings of the Members, Board meetings and meetings of committee(s) of the Board, shall be available for inspection and copying by any Member or the Member's duly appointed representative at any reasonable time and for a purpose reasonably related to the Member's interest as a Member, at the office of the Association or such other place as the Board may prescribe. The Board may establish reasonable rules concerning the notice to be given to the custodian of records by the Member desiring to inspect the books, records and financial statements of the Association, including costs and accessibility restrictions.

The final minutes, the minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board, other than executive session, shall be available to Members within thirty (30) calendar days of the meeting subject to the above-prescribed restrictions. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association.

Section 2. Inspection of Bylaws. The Association shall keep in its principal office the original or a copy of the most current Bylaws, certified by the Secretary, which shall be open to inspection by all of the Members at all reasonable times.

Section 3. Checks, Drafts, and Order for Payment. All checks, drafts, or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by the President and Treasurer or by at least two other Officers and in such manner as shall be determined by resolution of the Board.

Section 4. Contracts. Except as otherwise provided in these Bylaws, the Board may authorize any Officer(s) or agent(s) to enter into any contract or execute any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no Officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 5. Budgets and Financial Statements. The Board shall cause financial statements for the Association to be prepared and sent to each Member as follows:

5.1. Pro Forma Operating Budget. A pro forma operating budget ("Budget") for each fiscal year shall be prepared and distributed to each Member at the annual meeting. This Budget shall contain at least the following information:

(a) A statement of the estimated revenue and expenses of the Association, prepared on an accrual basis;

(b) A summary of the Association's reserves;

(c) A statement as to whether the Association has determined or anticipates that the levy of one or more Special Assessments.

(d) A general statement describing the procedures used by the Board for the calculation and establishment of reserves to defray the costs of future capital improvements.

5.2. Balance Sheet. A balance sheet as of an accounting date determined by the Board shall be distributed to each Member at the annual meeting.

5.3. Annual Report. An annual report consisting of a balance sheet as of the last day of the fiscal year and an operating (income) statement for the fiscal year shall be distributed at the annual meeting. If such annual report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized Officer of the Association that the statements contained therein were prepared without independent audit or review from the books and records of the Association.

5.4. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XI **INDEMNIFICATION**

The Association shall reimburse, indemnify and hold harmless each Director, Officer, and employee of the Association and each person who, at the request of the Association acts as a Director, Officer, or employee of any other corporation in which the Association has an interest, from and against all loss, cost, liability, and expense which may be imposed upon or reasonably incurred by him/her, including reasonable settlement payments, in connection with any claim, action, suit or proceeding or threat thereof, made or instituted, in which he may be involved or be made a party by reason of his/her being

or having been a Director, Officer or employee of the Association or such other corporation, or by reason of any action alleged to have been taken or omitted by him/her in such capacity. The right of indemnification provided herein, shall inure to each person referred to herein, whether or not the claim asserted against him/her is based on matters which arose in whole or in part prior to the adoption of this Section and in the event of his/her death shall extend to his/her legal representatives. The right of indemnification shall not inure to each person referred to herein for each person's own gross negligence or willful misconduct.

ARTICLE XII AMENDMENT

Section 1. Amendment Procedure. These Bylaws or the Articles of the Association may be adopted, amended or repealed only by two-thirds (2/3) vote of the votes entitled to be cast for both Class A Members and Class B Members, if any.

Section 2. Record of Amendments. Whenever an amendment or new Bylaw is adopted it shall be recorded in the Association's corporate records and reflected in the minutes of the Association. If any Bylaw is repealed, the fact of repeal, with the date of the meeting at which the repeal was enacted or written assent was filed, shall also be so recorded.

Section 3. Construction. Wherever the context of these Bylaws so requires, the singular shall include the plural, and the masculine shall include the feminine.

Section 4. Conflict. In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration, the Articles and these Bylaws, the Declaration shall control.

Section 5. Special Meeting. These Bylaws or the Articles of the Association may be amended at any special meeting of the Association called for that purpose or at the regular meetings of the Association. Notice of change shall be made available to the Members at least fourteen (14) calendar days in advance of the meeting.

Section 6. Effective Date. Unless otherwise provided prior to its adoption or in the motion to adopt, an amendment shall become effective upon adjournment of the meeting at which it is adopted.

IN WITNESS WHEREOF, these First Amended Bylaws have been duly adopted by a ____ vote of the votes entitled to be cast by the Members of the Village Gardens Homeowners Association, effective this ____ day of February, 2018.

By: _____
President

ATTEST:

By: _____
Secretary