

MALLARD COVE

674 ELM STREET
LACONIA, NH 03246

A CONDOMINIUM ON LAKE OPECHEE



CONDOMINIUM DOCUMENTS

Declaration of
Condominium

Description of Property

Articles of Agreement

By-Laws

Residency Regulations

Amendments
(Filed before 12/31/2005)

Amendments
(Filed after 12/31/2005)

Original 1987 documents
with amendments through
July 2018. See "Notes" on
next page.

NH State Laws
(As referenced in documents)

NOTES:

- 1) ORIGINAL DOCUMENTS -- The Mallard Cove Condominium documents (Declaration of Condominium, Articles of Agreement, By-Laws, Residency Regulations) were originally recorded with the Belknap County Registry of Deeds on October 16, 1987, in Book 1025 beginning on page 413.
- 2) THIS COPY – The documents were reprinted in October 2006 and contain the original wording of all of the documents and was reproduced in its entirety.
- 3) AMENDMENTS FILED PRIOR TO 12/31/2005 (Section 6) -- Since the original documents were first filed in 1987, various amendments were made and approved by homeowners. All amendments have been added to the text of each of the documents. You will find the original text, immediately followed by the amended version. This will make it easier for homeowners to have the most recent information on all changes and additions. Each amendment includes the date the change was made. It also includes the date, Book and page numbers where it is recorded at the office of the Belknap County Registry of Deeds.
- 4) AMENDMENTS FILED AFTER 12/31/2005 (Section 7) – A list of all amendments filed after 2005 are listed in this section. When new amendments are voted on and approved by homeowners, you will receive a copy of the amendment after it is filed and recorded by the Belknap County Registry of Deeds. You should then file your copy in Section 7 “Amendments Filed After 12/31/2005” so that your condominium documents can remain up-to-date. You will also receive a complete updated CD version of these condo documents with the original text immediately followed by the amended version.
- 5) ACCESS TO ORIGINAL DOCUMENTS – You can access the original documents and amendments by going to the Belknap County Registry of Deeds office on Court Street in Laconia. On-line access is also available by going to:

<http://www.nhdeeds.com/>

Select “Belknap County” and then click on “Search County Records.”

- 6) STATE LAWS – Several NH State laws (Chapter 356-B) pertaining to condominium associations are specifically referenced in our documents. Copies of these sections are included. Complete information on State laws governing condominiums is available on-line at:

<http://www.gencourt.state.nh.us/ras/html/NHTOC/NHTOC-XXXI-356-B.htm>

- 7) UPDATES – These documents will be updated as Amendments are approved by homeowners and recorded with the Belknap County Registry of Deeds.

DECLARATION OF CONDOMINIUM
FOR
MALLARD COVE, A CONDOMINIUM

THIS DECLARATION is made this 7th day of April 1987, by MALLARD COVE, INC., a New Hampshire corporation, with a place of business at 159 Main Dunstable Road, Nashua, New Hampshire 03060 (hereinafter sometimes called the "Declarant"), for the purposes of submitting certain property to condominium use and ownership in N.H. RSA Chapter 356-B (hereinafter sometimes called the "Act");

WHEREAS the Declarant owns a certain tract of land, with the improvements heretofore or hereafter constructed thereon, located on Elm Street, in Laconia, Belknap County, New Hampshire, on which it has reserved the right to construct certain structures containing a total of thirty (30) separate living units, with Common Areas and parking areas, which the Declarant intends to convert to a condominium project know as "Mallard Cove, A Condominium" (hereinafter sometimes called "The Condominium"); and

WHEREAS the Declarant intends to sell and convey condominium units in said condominium project, subject to certain mutually beneficial restrictions, covenants, conditions, equitable servitudes, and charges which it desires to impose thereon under a general plan of improvement of The Condominium for the benefit of all of said condominiums and the future owners thereof;

NOW THEREFORE, the Declarant hereby declares that all of the premises described in Exhibit A attached hereto, including all of the condominiums and other improvements located and to be located thereon, and all easements, rights, and appurtenances belonging thereto are hereby submitted to the provisions of the Act and are held and shall be held, conveyed, encumbered, leased, used, occupied, and improved subject to the following restrictions, covenants, conditions, uses, limitations, and obligations, all of which are declared and agreed to be in furtherance of the conversion of said premises into condominium units; and said restrictions, covenants, conditions, uses, limitations, and obligations are intended to enhance and protect the value and desirability of The Condominium as a whole and to mutually benefit each of the servitudes upon each of said condominium units in favor of each and all other condominium units therein; to create reciprocal rights and privity of contract and estate between all persons acquiring or owning an interest in any of said condominium units, including the Declarant, and their grantees, heirs, devisees, successors, and assigns, and shall be deemed to run with the land and be a burden and benefit to all such persons, including Declarant, their grantees, heirs, devisees, successors, and assigns.

ARTICLE 1, DEFINITIONS

- 1-100. Certain of the terms as used in this Declaration and in the By-Laws which are annexed hereto as Exhibit C and are made a part hereof, are defined and shall have meaning as follows, unless the context clearly indicates a different meaning therefor:

- 1-101. "Act" means the New Hampshire Condominium Act (RSA Chapter 356-B).
- 1-102. "Assessment" means that portion of the cost of maintaining, repairing, and managing the property, which is to be paid by each unit owner.
- 1-103. "Association" or "Association of Owners" means the unit owners acting as a group in accordance with the Act, the Declaration, and the By-Laws.
- 1-104. "Board" or "Board of Directors" means the executive and administrative entity designated in this Declaration, the Articles of Agreement, or by By-Laws of the Association as the governing body of said Association.
- 1-105. "Building" means all of the structures containing units located on the property subject to this condominium.
- 1-106. "By-Laws" means the instrument attached hereto as Exhibit C and made a part hereof, which instrument provides for the self-government of the condominium by the Association.
- 1-107. "Common Area" means all that portion of The Condominium, other than the units, and is more particularly described in Chapter 2-400 hereof. Common Area includes Limited Common Area.
- 1-108. "Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the Condominium Instruments; "Future Common Expenses" shall mean Common Expenses for which assessments are not yet due and payable.
- 1-109. "Common Profits" means all income collected or accrued by or on behalf of the Association, other than income derived from special assessments against individual units as provided for in Paragraph 2-702, Chapter 5-100, or Chapter 7-100 hereof.
- 1-110. "Condominium" means the real property and any interests therein described in Exhibit A hereof.
- 1-111. "Condominium Instruments" means this Declaration and the Exhibits annexed hereto as the same from time to time may be amended. Said exhibits are as follows:

Exhibit A – A legal description of the real property subjected to this Declaration. Also included within the scope of Exhibit A are the following surveyor's and engineer's plans: Site Plan entitled "Phase Plan for Mallard Cove," dated June 1987, prepared by Steven J. Smith & Associates, Inc.; and Floor Plans entitled "Mallard Cove", prepared by Sheehan Design, Registered Engineers. These plans are to be recorded in the Belknap County Registry of Deeds.

Exhibit B -- Articles of Agreement of Mallard Cove Condominium Association.

Exhibit C – By-Laws and Residency Regulations of said Mallard Cove Condominium Association.

Exhibit D – Condominium Warranty Deed.

- 1-112. “Condominium Rules” means such Residency Regulations as the Board from time to time may adopt relative to the use of The Condominium, or any part hereof.
- 1-113. “Condominium Unit” means a unit together with the undivided interest in the Common Area appertaining to that unit.
- 1-114. “Declarant” means Mallard Cove, Inc., a New Hampshire corporation, with a mailing address of 159 Main Dunstable Road, Nashua, NH 03060, or its successors or assigns.
- 1-115. “Declaration” means this instrument.
- 1-116. “Institutional Lender” means one or more commercial or savings banks, savings and loan association, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.
- 1-117. “Limited Common Area” means a portion of the Common Area reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.
- 1-118. “Mallard Cove, A Condominium”, means the premises described in Exhibit A, including land, all buildings and other improvements, and structures now or hereafter erected thereon, all easements, rights, and appurtenances belonging thereto, and all personal property now or hereafter used in connection therewith, which have been or are intended to be submitted to the provisions of the Act.
- 1-119. “Manager” means the person designated by the Board to manage the affairs of The Condominium, and to perform various other duties as may be assigned to such person by the Board in accordance with the provisions of the Declaration and the By-Laws.
- 1-120. “Share” means the equal, undivided interest in and to the Common Area attributed to each unit as set forth in Chapter 2-600.
- 1-121. “Supplemental Declaration” means any Declaration of Covenants and Restrictions, which by its terms is expressly made supplemental to the Declaration.
- 1-122. “Unit” means a portion of the condominium designated and intended for individual ownership and use.

- 1-123. "Unit Owner" means one or more persons who own a condominium unit.

ARTICLE 2, INFORMATION REQUIRED BY SECTION 356-B:16

- 2-100. Description of Land. A legal description of the land on which the buildings and other improvements in The Condominium are located is contained in Exhibit A attached hereto and made a part hereof.
- 2-200. Description of Buildings. There will be a total of thirty (30) residential units in The Condominium when it is fully constructed, consisting of detached, single-family and duplex housing units, which are to be constructed in phases. The first phase shall consist of a total of ten (10) units. All units will be constructed on slabs or full concrete foundations.
- 2-300. Description of Units. The unit number and the dimensions of each unit are shown on the Site Plan and Floor Plans referred to in Exhibit A. The boundaries of each unit with respect to floors, ceilings, walls, doors, windows and attached garages are as follows:
- 2-301. Horizontal Boundaries:
(a) The unfinished or undecorated interior surfaces of the lower most basement floor or slab.
(b) The unfinished or undecorated interior surfaces of the upper most ceiling.
- 2-302. Vertical Boundaries:
(a) The unfinished or undecorated interior surfaces of the perimeter walls and door frames.
(b) The unfinished or undecorated interior surfaces of perimeter doors.
(c) The finished or decorated exterior surfaces of windows and window frames.
- 2-400. Description of Common Area. The Common Area includes, but not by way of limitation:
- 2-401. The land on which the buildings containing the units are located and the walks, shrubbery, and other plantings, the waterfront, parking areas, the driveway and other land, and interests in land included in the description of The Condominium in Exhibit A.

2-402	<i>NOTE: Article 2-402 was amended on 8/31/2002 and recorded with the Belknap County Registry of Deeds on 9/16/02, Book 1790, Page 436. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i>
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Original text:

The foundations, column girders, beams and supports, and roof of said buildings; the perimeter walls and door frames around each unit and its attached garage to the unfinished or undecorated interior surfaces thereof and other walls and door frames which are not within a unit; the perimeter doors and windows to the unfinished or undecorated interior surfaces thereof

and other doors and walls which are not within a unit; the area between the unfinished or undecorated interior surfaces of the ceiling and the floor above; and any facilities for the furnishing of utility services or waste removal which are located within said areas.

Amended version dated 8/31/2002 and recorded on 9/16/2002:

The foundations, beams and supports and roof of said buildings; the perimeter walls around each unit and its attached garage to the unfinished or undecorated interior surfaces thereof. The area between the unfinished or undecorated interior surfaces of the ceiling and the floor above; and any facilities for the furnishing of utility services or waste removal, which are located within, said areas.

- 2-403. The water supply, hot water system, sewerage disposal, electrical and telephone systems serving The Condominium, to the extent said systems are located within The Condominium, and are not owned by the supplier of the utility service (but not including any portion thereof contained within and servicing a single unit unless such portions are entirely encased within other Common Area within the unit). All chimneys, whether constructed in the interior or exterior of a unit, shall be deemed to be part of that unit, except that the exterior decorated surface shall be maintained by the Association.
- 2-404. The pipes, ducts, flues, chutes, conduits, plumbing, wires and other utility installations and facilities for the furnishing of utility services or waste removal not located within a unit and any such facilities located within a unit, which either serve parts of The Condominium other than the unit within which they are located or are entirely encased by other Common Area within the unit; and
- 2-405. All other parts of The Condominium, including personal property acquired by the Association, necessary or convenient to its existence, maintenance, and safety, or normally in common use, and including any other easements set forth in Exhibit A.
- 2-500. Description of Limited Common Area. There is appurtenant to all of the units Limited Common Areas which are limited to the exclusive use of the owner or owners of the unit or units to which they are appurtenant:
- 2-501. There is appurtenant to the individual units as Limited Common Areas: The exclusive right to use the fence, entry garden, patios and terraces attached to each respective unit as shown on the Floor Plans referred to above. Some or all of the units will be assigned one or more detached, enclosed garages, which are Limited Common Area. Designations of the Limited Common Area are shown on the plans referred to in Exhibit A. Each Limited Common Area is owned, in common, by all of the unit owners, but is restricted to the use and benefit of the unit to which it appertains.
- 2-600. Unit Values. An equal, undivided interest in the Common Areas is allocated to each condominium unit. There shall appertain to each condominium unit in The Condominium, for voting purposes in connection with meetings of the Association, one vote per unit. Where a particular condominium unit is

owned by more than one person, said owners may not divide the vote appertaining to that unit.

- 2-700. Statement of the Purposes of Condominium Use. The Condominium is primarily intended for residential use and the following provisions, together with the provisions of the Condominium Residency Regulations, are in furtherance of this purpose:

NOTE: *Article 2-701 was amended on 7/15/2017 and recorded with the Belknap County Registry of Deeds on 7/31/2017, Book 3119, Page 117***AMENDED VERSIOS FOLLOWS ORIGINAL TEXT.**

Original text:

Each unit shall be occupied and used only for private, residential purposes by the owner and his family, or by lessees or guests of the owner, and not for any business use, except for home occupations permitted by ordinance, provided that the conduct of such occupation does not alter the residential character of the units and/or Common Areas, and except for the rights retained by the Declarant in Article 2-706. This restriction shall not be construed to prohibit owners from leasing their condominium units so long as the lessees thereof occupy and use the leased premises in accordance with the provisions hereof.

Amended version dated 7/15/2017 and recorded on 7/31/2017:

Each unit shall be occupied and used only for private, residential purposes by the owner and his family, or by lessees or guests of the owner, and not for any business use, except for home occupations permitted by ordinance, provided that the conduct of such occupation does not alter the residential character of the units and/or Common Areas, and except for the rights retained by the Declarant in Article 2-706. This restriction shall not be construed to prohibit owners from leasing their condominium units so long as the lessees thereof occupy and use the leased premises in accordance with the provisions hereof. All leases must be in writing and shall be given to the Board of Directors or its duly authorized representative prior to the lease being signed. A copy of the signed lease shall also be provided to the Board or its duly authorized representative. In no event shall any lease be for a term of less than six months.

- 2-702. The Common Area shall not be used in a manner, which is inconsistent with the residential character of The Condominium. No one shall obstruct, commit any waste in or otherwise cause any damage beyond reasonable wear and tear to the Common Area and any one causing such damage shall pay the expense incurred by the Board in repairing the same. No boats, boat trailers, snowmobiles, barbeque grills or other personal property shall be stored in the Common Areas. Nothing shall be altered, constructed in, or removed from the Common Area without the prior written consent of the Board.
- 2-703. No noxious or offensive use shall be made of any part of The Condominium, and nothing shall be done therein which is or will become an annoyance or

nuisance to other owners. No use shall be made of any part of The Condominium which shall constitute a fire hazard or which will result in the cancellation of insurance on any part of The Condominium, or which is in violation of any law, ordinance, or governmental regulation applicable thereto. No use shall be made of any part of The Condominium, which will increase the rate of insurance on the Common Area without the prior written consent of the Board.

- 2-704. No signs (except as provided in Paragraph 2-706 below), clothes lines, television antennas, refuse or loose clothing of similar material or equipment shall be hung, posted, or otherwise so placed as to be within the public view or within the view of other owners without the prior written consent of the Board.
- 2-705. No animals, livestock, or poultry, except household pets, shall be kept anywhere within The Condominium.
- 2-706. The Declarant shall be deemed to be the owner of any condominium units not sold by the Declarant for voting and other purposes. The Declarant expressly reserves for itself, its representatives and assigns, the right to use one or more of the units and the Common Areas for the purpose of maintaining a sales, rental and management facility on the premises, including, without limiting the generality of the foregoing, the showing of property and the displaying of signs; however, all of the foregoing shall not substantially interfere with the comfortable and convenient use of the condominium units by the respective unit owners.
- 2-707. The Association is empowered to adopt and amend, from time to time, condominium Residency Regulations concerning the use of The Condominium and various parts thereof, which Residency Regulations shall be furnished in writing to all unit owners and which Residency Regulations shall not be violated.
- 2-708. The consent of the Board referred to in this Chapter 2-700 may be withdrawn by the Board whenever it deems such withdrawal to be in the best interests of The Condominium.
- 2-709. None of the rights and obligations of the owners created herein or in any deed conveying a condominium unit from the Declarant to a purchaser thereof, shall be altered in any way by encroachments, except to the extent that any unit or Common Area encroaches on any other unit or Common Area, whether by reason of any deviation from the Site Plan and the Floor Plans in the construction, repair, renovation, restoration, or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, and valid easements for such encroachments shall exist; provided, however, that in no event shall a valid easement for an encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful and intentional misconduct of said owner or owners or their agents or employees.
- 2-800. Person to Receive Service of Process.

- 2-801. The Consumer Protection and Antitrust Bureau of the New Hampshire Department of Justice shall be the person to receive service of any lawful process in any non-criminal proceeding arising under the Act against the Declarant or its personal representative.
- 2-802. Any member of the Board of Directors whose residence is in The Condominium shall be the person to receive service of any lawful process in any proceeding arising under the Act against the Association. For the purposes of this paragraph, the place of business of the Board shall be considered to be Mallard Cove, A Condominium, Elm Street, Laconia, New Hampshire, 03246.
- 2-803. Service of any lawful process in any proceeding arising under the Act against the Declarant or its personal representatives shall be made upon Rodney N. Dyer, 28 Bowman Street, P.O. Box 1700, Laconia, NH 03247.
- 2-900. Vote to Rebuild. The provisions as to the percentage of votes by the Owners which shall be determinative of the question whether to rebuild, repair, restore, or sell The Condominium, in the event of damage or destruction of all or part thereof are set forth in Article 3.

ARTICLE 3, INSURANCE AND VOTING IN THE EVENT OF DAMAGE OR DESTRUCTION

- 3-100. Insurance to be Obtained. The Board of Directors shall obtain and maintain, to the extent obtainable, the following insurance:
- 3-101. Fire Insurance with Extended Coverage, Vandalism and Malicious Mischief Endorsements, insuring the buildings in The Condominium, including without limitation all such portions of the interior of such buildings as are for insurance purposes normally deemed to constitute part of the buildings and customarily covered by insurance, such as heating and other service machinery, interior walls, all finished wall surfaces, bathroom and kitchen cabinets and fixtures, and heating and lighting fixtures, except for improvements made by individual owners which exceed a total of One Thousand (\$1,000.00) Dollars and which are not reported to the insurer, such insurance to be in an amount at least equal to the full replacement value of the buildings, and to be payable to the Board as trustees for the unit owners and their mortgagees as their respective interests may appear.
- 3-102. Public Liability Insurance in such amounts as the Board may from time to time determine, but in no event shall the limits of liability be less than One Million Dollars (\$1,000,000.00) for Bodily Injury and Property Damage per occurrence, insuring the Unit Owners' Association, the Manager, if any, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to The Condominium and all unit owners and other persons entitled to occupy any unit or other portion of The Condominium, and with cross liability coverage with respect to liability claims of any one insured thereunder against any other insured thereunder. This insurance, however,

shall not insure against the individual liability of an owner for negligence occurring within his own unit or within the Limited Common Area over which he has exclusive use.

- 3-103. Workmen's Compensation Insurance as required by Law.
- 3-104. Such other insurance as the Board may determine.
- 3-200. General Insurance Provisions.
- 3-201. The Board shall deal with the insurer or the insurance agent in connection with the adjusting of all claims covered by insurance policies provided for under Chapter 3-100 above, and shall review with the insurer or insurance agent, at least annually, the coverage under said policies, said review to include an appraisal of improvements within The Condominium, and shall make any necessary changes in the policy provided for under Paragraph 3-101 above (prior to the expiration date set forth in any agreed amount endorsement contained in said policy) in order to meet the coverage requirements of such Chapter.
- 3-202. The Board shall be required to make every effort to see that all policies of physical damage insurance provided for under Paragraph 3-101, above:
 - (a) Shall contain waivers of subrogation by the insurer as to claims against the Association, its employees, members of the Board, owners, and members of the family of any owner who reside with said owner, except in cases of arson or fraud;
 - (b) Shall contain an agreed amount endorsement suspending co-insurance provisions and shall contain a waiver of defense of invalidity on account of the conduct of any of the owners over which the Association has "no control";
 - (c) Shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' written notice to all of the insureds thereunder (including unit owners) and all mortgagees of condominium units in The Condominium;
 - (d) Shall provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased individually by owners or their mortgagees; and
 - (e) Shall exclude policies obtained by individual owners from consideration under any "no other insurance" clause.
- 3-203. Each owner may obtain additional insurance for his own benefit and at his own expense. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Board pursuant to Chapter 3-100 above, and each owner hereby assigns to the Board the proceeds of any such policy to the extent that any such policy does, in fact, result in a decrease in such coverage. Said proceeds are to be applied

pursuant to the terms hereof as if produced by such coverage. Copies of all such policies (except policies covering only personal property owned or supplied by individual owners) shall be filed with the Association.

3-204.	<i>Article 3-204 was amended on 11/30/2005 and recorded with the Belknap County Registry of Deeds on 12/28/2005, Book 2257, Page 509. It was further amended on 7/22/2007 and recorded 8/03/2007, Book 2429, Page 706. AMENDED VERSIONS FOLLOW ORIGINAL TEXT.</i>
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Original text:

Each owner must obtain insurance for his benefit and at his own expense, insuring all personal property presently or hereafter located in his unit or Limited Common Area, all floor coverings whether or not fixtures, and all improvements to his unit which exceed a total value of One Thousand (\$1,000.00) Dollars and which are not reported in writing to the Board.

Amended version dated 11/30/2005 and recorded on 12/28/2005:

Each owner must obtain insurance for his own benefit and at his own expense, insuring all personal property presently or hereafter located in his unit or Limited Common Area, all floor coverings whether or not fixtures, all improvements to his unit which exceed a total value of One Thousand (\$1,000.00) and which are not reported in writing to the Board and any insurance deductible assessed to the unit as a result of loss. Each owner shall name the Association as an additional insured on his insurance policy and shall annually provide the Association proof of insurance. Failure to obtain and maintain insurance on an individual unit shall constitute negligence and entitle the Board to assess any costs incurred by the Association to the owner of such unit pursuant to Paragraph 4-115 of the By-Laws.

Amended version dated 7/22/2007 and recorded on 8/03/2007:

Each owner must obtain insurance for his own benefit and at his own expense, insuring all personal property presently or hereafter located in his unit or Limited Common Area, all floor coverings whether or not fixtures, all improvements to his unit which exceed a total value of One Thousand Dollars (\$1,000.00) and which are not reported in writing to the Board and insurance sufficient to cover the Master Insurance deductible unless self insured. In the event of a loss covered by the Condominium Master Policy, the Board will authorize any immediate work necessary to reduce the extent of the loss. However, other repairs will not begin until the Association has received the deductible from the homeowners' insurance carrier or from the homeowner (if self insured). Failure to obtain and maintain insurance on an individual unit shall entitle the Board to assess any costs incurred by the Association to the owner of such unit pursuant to Paragraph 4-115 of the Bylaws. The deductible is due from the homeowner within 60 days of the loss.

3-205. Each owner, within twenty (20) days after the commencement of construction of such improvements, shall notify the Board of all improvements to his condominium unit (except personal property other than fixtures) which

exceed a total value of One Thousand Dollars (\$1,000.00) and upon receipt of such notice the Board shall notify the insurer under any policy obtained pursuant to Paragraph 3-101 of any such improvements.

- 3-300. Procedure in the Event of Damage or Destruction. In the event of damage or destruction of all or part of The Condominium, as a result of fire or other casualty:
- 3-301. The Board shall arrange for the prompt repair and restoration of the damaged or destroyed portion of The Condominium and the Board shall disburse any insurance proceeds to the contractors engaged in such repair and restoration in appropriate progress payments UNLESS The Condominium is damaged or destroyed to the extent of seventy-five percent (75%) or more of the total replacement value of the buildings in The Condominium, and the Association by a vote of eighty percent (80%) of the owners' total voting power votes not to repair, reconstruct or rebuild the damaged or destroyed property, and to terminate The Condominium. Any cost of such repair and restoration in excess of the said insurance proceeds shall constitute a Common Expense and the Board may assess all the owners for such excess in the same manner as Common Expenses are assessed. If the cost of such repair and restoration is less than the amount of said insurance proceeds, then the excess of said insurance proceeds over said costs shall be added to The Condominium's reserves for contingencies and replacements or, in the discretion of the Board, distributed by the Board to the owners and their mortgagees as their interests may appear, in accordance with the fractions set forth in Chapter 2-600. (In the event that The Condominium is damaged or destroyed to the extent of less than seventy-five percent [75%] of said value, and unless the owners by a vote of eighty percent [80%] of their total voting power determine otherwise in accordance with Paragraph 3-303 hereof, the mere arrangement by the Board for the repair and restoration of the damaged or destroyed property shall be deemed a determination by the Association to repair, reconstruct, and rebuild.)
- 3-302. If the said property is damaged or destroyed to the extent of seventy-five percent (75%) or more of the total replacement value of the buildings in The Condominium, and the Association by a vote of eighty percent (80%) of the owners' total voting power votes not to repair, reconstruct or rebuild, or if The Condominium is damaged or destroyed to the extent of less than seventy-five percent (75%) of said value and owners by a vote of eighty percent (80%) of their total voting power elect to sell The Condominium, then the Board shall record at the Belknap County Registry or Deeds a Termination Agreement or Amendment and upon the recording of said notice, The Condominium, in its damaged condition, shall be deemed to be removed from the provisions of the Act and to be owned in common by the individual owners, each owning an undivided interest equal to the fraction set forth in Chapter 2-600 hereof, and any liens on any condominium unit shall be deemed to be transferred to the undivided interest of the owner of said encumbered condominium unit in accordance with the then existing priorities. Upon the recording of said Termination Agreement or Amendment, the said property shall be subject to a petition by any owner to the Board for its sale and for partition of the net proceeds of such sale. In the event of such a petition, the said property shall

be sold, as a whole or in parts and at one or more sales, upon such terms and conditions as the Board in its sole discretion, deems in the best interest of the owners and the net proceeds of such sale or sales, together with the net proceeds of insurance on said property, if any, shall be considered as one fund and shall be divided by the Board among all the owners in proportion to their respective undivided interests in said property, after first paying out of the share of each owner, to the extent sufficient for that purpose, the amount of any unpaid liens on this undivided interest in the order of the priority of such liens.

- 3-303. Subject to the provisions of Paragraphs 3-301 and 3-302, the owners of detached, single-family units or all of the owners of units in a duplex structure shall have an absolute and unqualified right and obligation to restore or replace a damaged or destroyed unit or units, which shall be restored and/or replaced as nearly as possible to the original exterior dimensions as set forth on the recorded site plan and floor plans, and further provided that the architectural style of such reconstruction or refurbishment shall continue to be compatible with the other units. All applicable insurance proceeds shall be used for this purpose, and additional funds expended by the Association for the purpose of completing reconstruction shall be separately assessed to the owners of such refurbished units.

ARTICLE 4, EXTENT OF OWNERSHIP AND POSSESSION BY OWNER

- 4-100. Subject to the provisions of this Declaration, each owner shall be entitled to the exclusive ownership and possession of his unit. No owner shall be deemed to own the unfinished or undecorated surfaces of the perimeter walls, floors and ceilings surrounding his condominium unit, nor shall an owner be deemed to own pipes, wires, conduits or other utility lines running through said condominium unit which are utilized for or serve more than one condominium unit, which items are hereby made a part of the Common Area. An owner shall, however, be deemed to own the walls and partitions which are contained within said owner's condominium unit and shall also be deemed to own the interior finished or decorated surfaces of the perimeter walls, floors, and ceilings, including plaster, paint, wallpaper, etc.
- 4-200. Each owner shall own an equal, undivided interest in the Common Area. No such interest shall be altered in a manner which is contrary to the provisions of the Act, as amended from time to time, and no such interest shall be separated from the unit to which it appertains, it being deemed to be conveyed or encumbered with the unit even though it is not expressly mentioned or described in the instrument of conveyance or encumbrance. Subject to the provisions of this Declaration, each unit owner may use the Common Area, excepting Limited Common Area, in accordance with the purposes for this it is intended so long as he does not hinder or encroach upon the lawful rights of the other owners or otherwise violate the provisions hereof or of any condominium Residency Regulations adopted pursuant to said provisions.

- 4-300. Subject to the provisions of this Declaration, each owner shall be entitled to the exclusive use of the Limited Common Area appurtenant to his unit. The exclusive use of the Limited Common Area shall not be altered without the consent of all the unit owners expressed in an amendment to the Declaration duly recorded and, without such unanimous consent, shall not be separated from the unit to which it is appurtenant, it being deemed to be conveyed or encumbered with the unit even though it is not expressly mentioned or described in the instrument of conveyance or encumbrance.

ARTICLE 5, OWNER'S OBLIGATION TO REPAIR

5-100.	<i>NOTE: Article 5-100 was amended and 5-100(a) was added on 8/31/2002 and recorded with the Belknap County Registry of Deeds on 9/16/2002, Book 1790, Page 436. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i>
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Original text:

Each owner shall, at his own expense, keep his condominium unit and its equipment and appurtenances in good order, condition and repair. In addition to keeping the interior of the unit in good repair, each owner shall be responsible for the maintenance, repair, or replacement of any' bathroom, kitchen fixtures, plumbing fixtures, water heater, appliances, heating equipment, lighting fixtures, doors, windows and window frames, and other property which are not Common Area, and which are located in his condominium unit. Each owner shall immediately notify the Board or its agents of any damage to or malfunction of any facilities for the furnishing of utility services or waste removal, which are Common Area within his condominium unit. In the event an owner fails to make such repairs after thirty (30) days' written notice of the need for the same is given to him by the Board, the Board may enter and make such repairs, the expense of which shall be borne by said owner. No owner shall permit any repair or other work in his unit by any one unless such person or entity has furnished written evidence that it has obtained reasonably adequate Public Liability and Workmen's Compensation insurance in forms and amounts which are satisfactory to the Board, and unless such repair or other work is performed in compliance with governmental laws, ordinances, rules and regulations.

Amended version dated 8/31/2002 and recorded on 9/16/2002:

Each owner shall, at his own expense, keep his condominium unit and its equipment, appurtenances and Limited Common Area in good condition and repair. In addition to keeping the interior of the unit in good repair, each owner shall be responsible for the maintenance, repair, or replacement of any bathroom or kitchen fixtures, plumbing fixtures, water heater, appliances, heating equipment, lighting fixtures, door, door frames and hardware, windows, window frames and hardware, and any other property which are not Common Area, and which are located in his condominium unit. The unit owner shall also be responsible for maintenance of any limited Common Area assigned to his unit. In the event any owner fails to obey any rule or regulation or fails to make any such repairs to his unit, after thirty (30) days written notice from the Board, the Board may authorize entry to the unit and

may make such repairs as it deems necessary, the expense of which shall be borne by the owner and constitute an assessment against the unit. Each owner shall immediately notify the Board or its agents of any damage to or malfunction of any facilities for the furnishing of utility services or waste removal, which is Common Area within his condominium unit. Any damage caused by the failure of an owner to promptly report such malfunction may be charged against the negligent unit owner. No owner shall permit any repair or other work in his unit by anyone, unless such person or entity has furnished written evidence that it has obtained reasonable adequate public liability and worker's compensation insurance in forms and amounts which are satisfactory to the Board. Any such repair or other work is to be performed in compliance with Article 6 below, and all governmental laws, ordinance, rules and regulations.

5-100 (a) NOTE: Article 5-100 (a) was amended on 8/31/2013 and recorded with the Belknap County Registry of Deeds on 9/12/2013, Book 2875, Page 367.

Original text:

- (a) Shrubby and other Plantings: The Association shall pay for the removal of any shrubby or plantings that are considered diseased, overgrown or beyond trimming that may cause damage to any structure. Each owner shall be required at his own expense to replace said shrubby or plantings. The selection of same to be approved by the Board of Directors or special committee if so designated.

Amended version dated 8/31/2013 and recorded on 9/12/2013.

- (a) Shrubby and other Plantings: The Association shall pay for the removal of any shrubby or plantings that are considered diseased, overgrown or beyond trimming that may cause damage to any structure. Each owner shall be required at his own expense to replace said shrubby or plantings. The selection of same to be approved by the Board of Directors or special committee if so designated. The Association will also pay for an annual weeding and mulching of the Limited Common Areas immediately around each unit, as needed.

**ARTICLE 6, PROHIBITION AGAINST STRUCTURAL
CHANGES BY OWNER**

- 6-100. No owner shall, without first satisfying the requirements regarding repair or other work set forth in Article 5 above, and, in addition, obtaining the written consent of the Board;
- 6-101. Make or permit to be made any structural alteration, improvement, or addition in or to his condominium unit or in or to any other part of The Condominium;

- 6-102. Tamper with any bearing wall or take any action or permit any action to be taken that will impair the structural soundness or integrity or safety of the building or any other structure in The Condominium;
- 6-103. Impair any easement or right or personal property, which is a part of The Condominium;
- 6-104. Paint or decorate any portion of the exterior of the building of any other structure in The Condominium or any Common Area therein.

ARTICLE 7, ENTRY FOR REPAIRS

- 7-100. The Association shall have the irrevocable right, to be reasonably exercised by the Board or its agents, to enter any unit or Limited Common Area to inspect the same, to remove violations therefrom, or to perform any repair, maintenance, or construction for which the Board is responsible and shall have the irrevocable right, to be reasonably exercised by the Board or its agents, or by any two or more unit owners acting as a group, to enter any condominium unit or Limited Common Area for the purpose of making emergency repairs necessary to prevent damage to other parts of The Condominium. Such entry shall be made with as little inconvenience to the unit owner as practicable, and any damage caused thereby or expenses in connection therewith shall be repaired or satisfied by the Board out of the Common Expenses unless such emergency repairs are necessitated by the negligence of one or more unit owners, in which case the negligent unit owner or unit owners shall bear the expense of such repairs.

ARTICLE 8, BY-LAWS

- 8-100. The By-Laws shall be as set forth in Exhibit C attached hereto. The By-laws may be amended as set forth therein or in the Act at any meeting of the Association provided a copy of the proposed amendment has been included in the written notice of the meeting as provided for in RSA 356-B:37. Any amendment shall be effective upon recording in the Belknap County Registry of Deeds.

ARTICLE 9, CONVEYANCES

- 9-100. The sale and leasing and mortgaging of condominium units shall be subject to the following provisions notwithstanding anything herein elsewhere contained:
- 9-200. A unit may be sold or leased by its owner without the approval of the Declarant or the Association, provided, however, that any lease or rental agreement must be in writing and no unit may be leased or rented for less than as provided in the Residency Regulations.

- 9-300. Notice to Association. The unit owner intending to make a sale of his condominium unit shall give notice to the Association of the name and address of the intended purchaser and such other information as the Association or Directors may reasonably require for record keeping purposes, but this shall not be construed as granting the Association the right of approval of unit sales.
- 9-400. Mortgage. No unit owner may mortgage his condominium unit nor any interest therein without the approval of the Association except to a purchase money or institutional lender. The approval of any other mortgage may be upon conditions determined by the Board of Directors. In the event of any default on the part of any unit owner under any first mortgage which entitles the holder thereof to foreclose the same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Article 9, but the subsequent purchaser from the mortgagee of such condominium unit shall be thereupon and thereafter subject to the provisions of this Declaration.
- 9-500. Transfer by Devise or Descent; Transfers Not by Sale. The transfer of a deceased joint tenant's interest in a condominium unit to the surviving joint tenant or the transfer of a deceased's interest in a condominium unit to a devisee by will or to his heirs-at-law under intestacy laws shall not be subject to this Declaration and all amendments thereto. If a unit owner can establish to the satisfaction of the Board of Directors that a proposed transfer is not a sale, then such transfer shall not be subject to the provisions of Article 9-100. The Association shall, in such an event, prepare and deliver, nevertheless, written approval in recordable form as provided in Article 9-100.
- 9-800. Fee. The Board may impose a fee not exceeding Twenty-five Dollars (\$25.00) as a prerequisite to dealing with any notices of amendments of record required by Article 9.

ARTICLE 10, ASSESSMENTS

- 10-100. Each unit owner shall pay all common expenses assessed against him, all expenses for which he is liable under Paragraph 2-702, Article 5, or Article 7 hereof, and all other assessments made against him by the Board in accordance with the terms of the Declaration and By-Laws and all expenses so incurred and sums so assessed but unpaid shall be secured by a lien as provided in RSA 356-B: 46. No owner shall convey, mortgage, sell, or lease his condominium unit unless and until he shall have paid in full to the Board all such expenses theretofore incurred and sums theretofore assessed by the Board against his condominium unit, which are due and unpaid. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of said condominium unit, shall be entitled upon request to a recordable statement, signed by the Treasurer of the Association, setting forth the amount of the unpaid assessments currently levied against that condominium unit. Such request shall be in writing and shall be directed to the Board of Directors. The statement shall be binding on the Association,

the Board of Directors, and every unit owner. Payment of a fee not exceeding Ten Dollars (\$10.00) may be required as a prerequisite to the issuance of such a statement. A purchaser of a condominium unit shall be liable for the payment of any such expenses or assessments against said condominium unit prior to its acquisition by him which are unpaid as of the time of said acquisition, whether or not such expenses or assessments are then due, except that an institutional mortgagee or other purchaser at the foreclosure sale of said institutional mortgage or the grantee in a deed in lieu of such foreclosure shall not be liable for the payment of expenses or assessments unpaid and due as of the time of his acquisition, but shall be liable for unpaid expenses and assessments becoming due thereafter.

- 10-200. The Association shall have the right to charge interest at Eighteen (18%) per annum, or at the maximum lawful interest rate for unpaid common expenses or other expenses or assessments from the due date. In addition, it shall have the right to charge unit owners \$5.00 per month for duplicate billing charges and other costs, including attorney's fees in the event the Association is required to proceed with collection to obtain payment of such expenses. Any lien may be exercised for any unpaid common expense or other expenses or assessments or costs after thirty (30) days from the due date. The lien for unpaid common expenses or other expenses or assessments, once perfected, shall have the priority set forth in RSA 356-B:46, I. The lien, including interest, costs and attorney's fees may be foreclosed in the manner provided by the laws of the State of New Hampshire for the foreclosure of power of sale mortgages, or by suit brought in the name of the Board of Directors, acting on behalf of the Association. The suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same, and foreclosure shall be available without bringing suit to recover a money judgment.
- 10-300. Until the year beginning June 1, 1988, the maximum annual assessment shall be \$989.67 per condominium unit. From and after June 1, 1988, the annual assessment may be increased by vote of the unit owners, as hereinafter provided, for the next succeeding one (1) year and at the end of each such period of one (1) year, for each succeeding period of one (1) year. The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. Subject to the limitations in this paragraph, and the periods herein specified, the Association may change the maximum and basis of the assessments fixed herein prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the votes of the unit owners at a meeting duly called for this purpose, written notice of which meeting shall be sent to all unit owners in accordance with RSA 356-B:37.

ARTICLE 11, EMINENT DOMAIN

- 11-100. The provisions of RSA 356-B:6 shall control in the event of the condemnation of all or any part of The Condominium.

ARTICLE 12, WAIVER

- 12-100. The failure of the Board to insist, in any instance, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration or of the By-laws or to exercise any right herein or therein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment in the future of such term, covenant, condition, restriction, or right, but such term, covenant, condition, restriction, or right shall remain in full force and effect. The receipt by the Board of payment of any assessment from a unit owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

ARTICLE 13, LIABILITY OF THE BOARD

- 13-100. The members of the Board shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willfulness, misconduct, or bad faith and except as provided for below. The unit owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board in behalf of The Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of the By-Laws. It is permissible for the members of the Board, who are Directors or Officers of the Declarant, to contract with the Declarant and affiliated corporations without fear of being charged with self-dealing. It is intended that the members of the Board shall have no personal liability, other than as unit owners, with respect to any contract made by them on behalf of The Condominium, except with respect to any such contract made in bad faith or contrary to the provisions of the Declaration or of the By-Laws. It is also intended that the personal liability of each unit owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the Common Area bears to the interests of all the unit owners in the Common Area (except that the personal liability of unit owners who are members of the Board and who contract in bad faith or contrary to the provisions of the Declaration or of the By-Laws shall not be so limited). The provisions of this Article 13 do not apply to and shall not preclude claims for property damage and personal injury by unit owners against the Board or any other insured under the liability insurance required by Paragraph 3-102.

ARTICLE 14, ENFORCEMENT

- 14-100. Each owner shall comply strictly with the provisions of this Declaration, the By-Laws, and the Condominium Residency Regulations as the same may be lawfully amended from time to time and with decisions adopted pursuant to

said Declaration, By-Laws, and Condominium Residency Regulations and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the unit owners, or in a proper case, by an aggrieved unit owner.

ARTICLE 15, PERSONAL PROPERTY

- 15-100. The Board may acquire and hold, for the benefit of the unit owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such property shall be owned by the unit owners in the same proportion as their respective shares in other Common Area. A transfer of a condominium unit shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property, whether or not such personal property is specifically mentioned therein.

ARTICLE 16, CONTROL BY THE DECLARANT

- 16-100. The Declarant shall have the right to appoint the Board of Directors of the Association and to exercise the powers and responsibilities assigned by the condominium instruments and by RSA 356-B, to the Unit Owners' Association, the officers or the Board of Directors, either directly or through its appointed manager. The right to control herein reserved to the Declarant shall continue for a period of three (3) years from the date of recording of this Declaration, or until units representing 75% of the undivided interests in the Common Areas have been conveyed, whichever occurs first. The Declarant shall, during this period, have the right to appoint the manager and exercise all functions of the Board or the Association as provided in RSA 356-B: 36. In the event of foreclosure by the mortgagee holding a blanket mortgage on The Condominium during the period of control by Declarant, all officers and directors appointed by the Declarant shall immediately resign.

ARTICLE 17, CONSENT OF FIRST MORTGAGEE

- 17-100. Notwithstanding any other provision of this Declaration, the By-Laws or Residency Regulations, so long as a first mortgagee is the holder of a construction mortgage lien conveyed to it by Declarant covering one or more of the condominium units, and unless the first mortgagee shall have given its approval, the Unit Owners' Association and Board of Directors shall not be entitled to:
- (a) By act or omission, seek to abandon or terminate The Condominium;
 - (b) Partition or subdivide any unit;
 - (c) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area;
 - (d) Use hazard insurance proceeds for losses to the property (whether to units or to Common Area) for other than the repair, replacement or

reconstruction of such losses, except as provided by statute in case of substantial loss to the units and/or Common Area.

- (e) Amend, modify or otherwise change any rights or obligations under this Declaration, the By-Laws or the Rules;
- (f) this Article shall not apply to or in any way be construed as a limitation upon the right of Declarant to designate and convert Additional Land with the resulting change in the undivided percentage interests allocated to existing units pursuant to the provisions of the Condominium Act and of this Declaration.

ARTICLE 18, HLMC/FNMA COMPLIANCE

- 18-100. The provisions of this paragraph shall apply notwithstanding anything to the contrary, express or implied, contained in this Declaration or the By-Laws.

Unless at least 100% of the holders of the first mortgages of units in the condominium (based on one vote for each mortgage) shall have given their prior written approval, the Declaration, the By-Laws or any other condominium instruments (as defined by New Hampshire Revised Statutes Annotated Chapter 356-B) shall not be amended in any manner contrary to the matters set forth in this Section 18. Further, the following requirements apply to the condominium:

- (a) Unless all of the first mortgagees holding mortgages on the individual units in the condominium (based upon one vote for each first mortgage owned) have given their prior written approval, neither the unit owners nor the Board of Directors of the Association of Unit Owners or the Association itself, shall take any of the following actions (by amendment to the Declaration or otherwise):
 - (i) By act or omission, seek to abandon or terminate the condominium;
 - (ii) Change the prorata interest or obligations of any individual unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the prorata share of ownership of each unit in the Common Areas and facilities;
 - (iii) Partition or subdivide any unit;
 - (iv) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and facilities, provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas shall not be deemed an action for which any prior approval of a mortgagee shall be required under this subsection;
 - (v) Use hazard insurance proceeds for losses to any property of the condominium (whether to units or to Common Areas) for other than

the repair, replacement, or reconstruction of such property of the condominium.

- (b) Any first mortgagee who obtains title to a unit by foreclosure or pursuant to any other remedies provided in the mortgage or by law will not be liable for such unit's unpaid common expenses, charges or dues, which accrued prior to the acquisition of title to such unit by the mortgagee.
- (c) In no case shall any provision of this Declaration or the By-Laws or any other condominium instrument give to a unit owner or any other party any priority over any rights of the first mortgagee of the unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation award for losses to or a taking of such unit and/or the Common Areas and facilities of the condominium.
- (d) In the event any right of first refusal in case of the sale or lease of a unit is incorporated into this Declaration or any other condominium instruments, such right of first refusal shall not impair the rights of a first mortgagee to:
 - (i) Foreclose or take title to a unit pursuant to the remedies provided in the mortgage;
 - (ii) Accept a deed in foreclosure (or assignment in lieu of foreclosure) in the event of default by a mortgagor; or
 - (iii) Sell or lease a unit acquired by the first mortgagee.

Any person taking title to a unit through foreclosure sale duly conducted by a first mortgagee shall be exempt from any right of first refusal adopted by the unit owners or the Association of Unit Owners and incorporated into this Declaration, the By-Laws and any other condominium instrument.

- (e) A first mortgagee, upon request to the Board of Directors of the Association of Unit Owners, will be entitled:
 - (i) To written notification from the Board of Directors of any default by its borrower who is an owner of a unit with respect to any obligation of such borrower under the Declaration or the By-Laws, which is not cured within 60 days.
 - (ii) To inspect the books and records of the Association of Unit Owners during normal business hours.
 - (iii) To receive an audited financial statement of the Association of Unit Owners within 90 days following the end of any fiscal year of the Association;
 - (iv) To written notice of all meetings of the Association and to be permitted to designate a representative to attend all such meetings; and

- (v) To prompt written notification from the Board of Directors of the Association of any damage by fire or other casualty to the unit upon which the first mortgagee holds a first mortgage or proposed taking by condemnation or eminent domain of said unit or the Common Areas and facilities of the Condominium.
- (f) The Board of Directors shall make no agreement for professional management of the Condominium with the Declarant or any other contract with the Declarant, which exceeds a term of three (3) years, and any such agreement shall provide for termination by either party without cause and without payment of a termination fee or not more than 90 days' written notice.

ARTICLE 19, CONVERSION OF CONVERTIBLE LAND

19-100 ***Article 19-100 was amended on 11/23/1987 and recorded with the Belknap County Registry of Deeds on 12/02/1987, Book 1032, Page 265. It was further amended on 12/30/88 and recorded 1/10/1989, Book 1083, Page 626. AMENDED VERSIONS FOLLOW ORIGINAL TEXT.***

Original text:

Option to Convert. The Declarant intends to construct this project in several phases. The first phase shall consist of ten (10) units on land submitted to The Condominium as described in Exhibit A. Subsequent phases may add twenty (20) more units on the land described as "Convertible/Withdrawable Land" as described in Exhibit A so that The Condominium, when fully developed, would contain a total of thirty (30) units. Declarant's option to construct the additional units on the site designated "Convertible / Withdrawable Land" shall be assignable and unlimited except for the provisions of this Declaration and RSA 356-B, and the consent of unit owners shall not be required as a condition for the exercise of the option.

Amended version dated 11/23/1987 and recorded on 12/02/1987:

1. The number of units within The Condominium is hereby increased by nine (9) units to a total of nineteen (19) units to be constructed as part of The Condominium. Six (6) units shall be constructed within Phase 2, and three (3) units shall be constructed within Phase 4, all as depicted on the Site Plan entitled "Phase Plan for Mallard Cove", dated June 1987, prepared by Steven J. Smith & Associates, Inc., to be recorded in the Belknap County Registry of Deeds.
2. The land described as Phases 2 and 4 on the aforesaid Site Plan is hereby converted to Common Area for all purposes as provided in the Condominium Act and this Declaration of Condominium.
3. The interests of all unit owners in the Common Areas are hereby allocated in accordance with Article 19 of the Declaration and the provisions of RSA 356-B:18-II, so that each of the nineteen (19) units submitted to this Declaration of Condominium shall have an equal, undivided interest in the Common Areas for all purposes.

4. Phase 2 and 4 as depicted on the Site Plan shall no longer be withdrawable from The Condominium.

Amended version dated 12/30/1988 and recorded 1/10/1989:

1. The number of units within The Condominium is hereby increased by eleven (11) units to a total of thirty (30) units to be constructed as part of The Condominium. Eleven (11) units shall be constructed within Phase III, all as depicted on the Site Plan entitled "Phase Plan for Mallard Cove", to be recorded in the Belknap County Registry of Deeds.
 2. The land described as Phase III on the plan of land entitled, "As Build Site Plan of Phase I, II, and IV of Mallard Cove, Elm Street, Laconia, N.H., dated September 23, 1987, Scale 1" = 50'", prepared by J. R. Blais Associates and recorded with the Belknap County Registry of Deeds in Drawer L4 as Plan #57, is hereby converted to Common Area for all purposes as provided in the Condominium Act and this Declaration of Condominium.
 3. The interest of all unit owners in the Common Areas are hereby allocated in accordance with Article 19 of the Declaration and the provisions of RSA 346-B:18-II, so that each of the thirty (30) units submitted to this Declaration of Condominium shall have an equal, undivided interest in the Common Areas for all purposes.
 4. Phase III as depicted on the Site Plan shall no longer be withdrawable from The Condominium.
- 19-200. Legal Description. A legal description by metes and bounds of the Convertible Land within the Condominium (the site of structures containing a maximum of 20 units) is appended hereto as part of Exhibit A.
- 19-300. Maximum Number of Units. A maximum of twenty (20) units may be created in the additional structures, which may be erected on the Convertible Land. Provided, however, that the total number of units in The Condominium may be increased by the subdivision of units as permitted by the Declaration.
- 19-400. Restrictions on Use. All buildings and units to be created on the Convertible Land shall be related to residential use.
- 19-500. Construction of Compatible Structures. The structures erected on the Convertible Land will be generally compatible with the structures on the other portions of the submitted land in terms of quality of construction, the principal materials to be used, and architectural style.
- 19-600. Other Improvements. If Declarant exercises its option to erect additional structures on the Convertible Land, other improvements shall consist of roads, walkways and underground utility services similar to those appurtenant to the existing structures. Additional parking areas are contemplated, but there is no assurance that other improvements will be constructed and no assurance as to their location.
- 19-700. Construction of Additional Units. Layout, quality and other significant characteristics of the units that may be created in the Convertible Land are reserved to the sole discretion of the Declarant.

- 19-800. Re-allocation of Interests in the Common Areas. If the Declarant elects to erect additional structures, then the interests of all unit owners in the Common Area shall be re-allocated in accordance with RSA 356-B:18(II). The Declarant shall record a site plan and floor plans, together with an amendment to the Declaration, re-allocating undivided interests in the Common Areas so that the units depicted on such site plan and floor plans shall be allocated undivided interests in the Common Areas on the same basis as the units depicted on the site plan and floor plans recorded simultaneously with this Declaration.
- 19-900. Easement to Facilitate Conversion. The Declarant shall have a transferable easement over and on the Common Areas of the Condominium for the purpose of constructing the additional structures and the appurtenances to such structures, and of doing all things reasonably necessary and proper to convert any convertible land and to expand The Condominium. Declarant expressly reserves the right, on behalf of itself, its successors and assigns, to grant utility easements (if necessary) within the Common Areas of the Condominium for the purpose of connecting the structures to underground utilities for the benefit of all of the respective owners of the Condominium.
- 19-901. Construction Financing. Declarant shall have the right to mortgage the structures as security for construction financing, which mortgage shall also include the proportional rights of the additional units to an undivided share in the Common Areas of the condominium. Any such mortgage shall have priority over the interests of unit owners in such portion of the Convertible Land.
- 19-902. Phasing of Convertible Land. Portions of the Convertible Land may be converted at different times, subject only to the limitations provided in this paragraph or the Condominium Act. If the Declarant elects to erect structures on the Convertible Land, it may do so at different times without limitation with respect to the number of units constructed, provided that the maximum number of units and the time within which they are constructed conform to the provisions of the Article and the Condominium Act.
- 19-903. The Right to Create Limited Common Areas. The Declarant reserves the right to create Limited Common Areas within any portion of the Convertible Land, but there are no assurances that the Limited Common Areas will be similar in type, size or number to the Limited Common Areas on the submitted land.

ARTICLE 20, WITHDRAWABLE LAND

- 20-100. Reservation of Option to Contract the Condominium. The Declarant expressly reserves the option to contract The Condominium by withdrawing from it at any time and from time to time all or part of the Convertible Land described in Exhibit A hereto attached and made a part hereof. The Declarant is not obligated, however, to so contract The Condominium and the Declarant reserves the right to terminate any contraction at any point and

thereafter to devote the remaining land described in Exhibit A to the purposes of The Condominium.

20-200. Limitations Upon the Declarant's Option to Contract The Condominium. Declarant shall not have the right to contract The Condominium without first obtaining subdivision approval from the Laconia Planning Board and recording an approved subdivision plan in the Belknap County Registry of Deeds. Except for this limitation and the time limitation set forth in the paragraph below, there are no limitations imposed upon the Declarant's option to contract The Condominium. No consent of a Unit Owner (other than the Declarant) shall be required as a prerequisite to the exercise by the Declarant of the option to contract The Condominium herein reserved.

20-300. Time Limit After Which Declarant's Option to Contract The Condominium Shall Expire. The Declarant's option herein reserved to contract The Condominium shall expire seven (7) years from the date of the recording of the Declaration or after such longer period of time as may be permitted by any amendment of the Act; provided, however, that the Declarant's option shall sooner expire upon the first to occur of the following events:

(a) The Condominium shall have been contracted to exclude all of the land described in Exhibit A hereto;

(b) The Declarant shall have recorded in the Registry of Deeds for Belknap County, New Hampshire, an instrument relinquishing its option herein reserved to contract The Condominium.

20-400. Legal Description of Land Which May be Withdrawn From The Condominium. A legal description by metes and bounds of all land that may be withdrawn from The Condominium (hereinafter referred to as "Withdrawable Land") is set forth in Exhibit A hereto attached and made a part hereof.

20-500. Limitations With Respect to Withdrawal of Withdrawable Land. The Declarant reserves the option to withdraw all, part or none of the Withdrawable Land From
m The Condominium and, consequently, there are no limitations as to what portions of the Withdrawable Land may be withdrawn from The Condominium by the Declarant.

20-600. Reservations of Use: In the event the Declarant reserves the option to withdraw all or part of the Withdrawable Land from The Condominium, such withdrawal shall be subject to rights of use of the condominium unit owners with respect to the common beach depicted on the site plan, together with appropriate easements for access, utility and road easements necessary to permit the orderly development of The Condominium.

ARTICLE 21, WATER AND SEWERAGE SYSTEM

- 21-100. The units receive their water from the municipal water system. All units are individually connected to the municipal sewerage system.

ARTICLE 22, NOTICES

- 22-100. All notices hereunder, and under the By-Laws and the Act, to the Association and the Board shall be sent by United States mail to the Board at Mallard Cove, A Condominium, Elm Street, Laconia, New Hampshire, 03246, or to such other address as the Board may designate, from time to time, by notice in writing to all unit owners. All such notices to unit owners shall be sent to the address of the owners at their respective units and to such other addresses as any of them may have designated to the Board. 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, and except as otherwise provided herein.

ARTICLE 23. SPECIAL PROVISIONS

- 23-100. All roads and driveways within The Condominium are private ways and shall continue to be private ways. The City of Laconia does not assume any responsibility for maintenance of the roadways within The Condominium, or liability for any damage resulting from the use thereof. The responsibility for maintenance of all roads and driveways within The Condominium is solely that of the Condominium Unit Owners Association.

ARTICLE 24, SEVERABILITY

- 24-100. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity of any part of this Declaration shall not affect in any manner the validity, enforceability, or effect of the balance of the Declaration.

ARTICLE 25, GENDER

- 25-100. The use of the masculine gender herein shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

ARTICLE 26, INTERPRETATION

- 26-100. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project.

ARTICLE 27, AMENDMENT

27-100. Except as otherwise provided herein and in the Act, this Declaration may be amended by the vote of two-thirds (2/3) or more of the total voting power of all unit owners, cast in accordance with the provisions hereof and of the By-Laws, which amendment shall become effective upon recordation at the Belknap County Registry of Deeds. So long as the Declarant owns one or more units or Convertible or Withdrawable Land, no amendment to the Declaration shall be adopted which could interfere with the sale, lease or other disposition of such units or land, except with the consent, in writing, of the Declarant. No such amendment shall be contrary to the provisions of the Condominium Act, or to the conditions imposed by the Laconia Planning Board when it granted subdivision approval permitting the establishment of The Condominium.

IN WITNESS WHEREOF, Mallard Cove, Inc., by its President, duly authorized, has executed this Declaration on the day and year first above written.

MALLARD COVE, INC.

Witness

By: _____
Peter Carbone, Its President
Duly Authorized

THE STATE OF NEW HAMPSHIRE, Belknap, SS.

The foregoing instrument was acknowledged before me this 7th day of April 1987, by Peter Carbone, the President of Mallard Cove, Inc., a New Hampshire corporation, on behalf of the corporation.

Notary Public
Justice of the Peace

EXHIBIT A

MALLARD COVE, A CONDOMINIUM

A certain tract of land, with the improvements heretofore or hereafter constructed thereon, located on Elm Street, in Laconia, County of Belknap, State of New Hampshire, as shown on Site Plan entitled "Phase Plan for Mallard Cove", dated June 1987, prepared by Steven J. Smith & Associates, Inc., to be recorded in the Belknap County Registry of Deeds, bounded and described as follows:

SUBMITTED LAND:

Beginning at the drill hole found in a stone wall on the southerly side of Elm Street; thence along said stone wall North 44° 57' 38" West a distance of 259.99 feet to an iron pin found; thence North 48° 34' 34" West a distance of 150.36 feet to an iron pin found; thence South 32° 55' 42" West a distance of 260.00 feet to a point; thence South 55° 40' 51" East a distance of 128.10 feet to a point; thence South 28° 53' 55" West a distance of 356.95 feet to a point; thence South 74° 24' 56" East a distance of 285.06 feet to an iron pin found; thence North 30° 08' 00" East a distance of 457.98 feet to the point of beginning.

CONVERTIBLE / WITHDRAWABLE LAND:

Beginning at an iron pin found at the southeasterly corner of the Submitted Land; thence North 74° 24' 56" West a distance of 285.06 feet to a point; thence North 28° 53' 55" East a distance of 356.95 feet to a point; thence North 55° 40' 51" West a distance of 128.10 feet to a point; thence South 32° 55' 42" West a distance of 143.43 feet to an iron pin found; thence South 44° 13' 02" West a distance of 267.68 feet to an iron pin found near the shore of Lake Opechee; thence southerly along the shore of said lake to an iron pin found, the tie line between the two aforementioned pins being South 28° 03' 07" East a distance of 887.41 feet; thence North 30° 07' 57" East a distance of 217.98 feet to an iron pin found; thence North 06° 56' 21" West a distance of 448.85 feet to the point of beginning.

For the purpose of definition, "Submitted Land" means the 4.14-acre parcel (described as Phase 1 on the Site Plan), which is not withdrawable from The Condominium. The remaining 6.86 acres of Convertible/Withdrawable Land (described as Phases 2, 3, and 4 on the Site Plan) is also subject to the Declaration of Condominium and is Submitted Land within the meaning of The Condominium Act, unless all or a portion of the 6.86 acres is withdrawn and The Condominium is contracted as provided in Article 20 of the Declaration of Condominium.

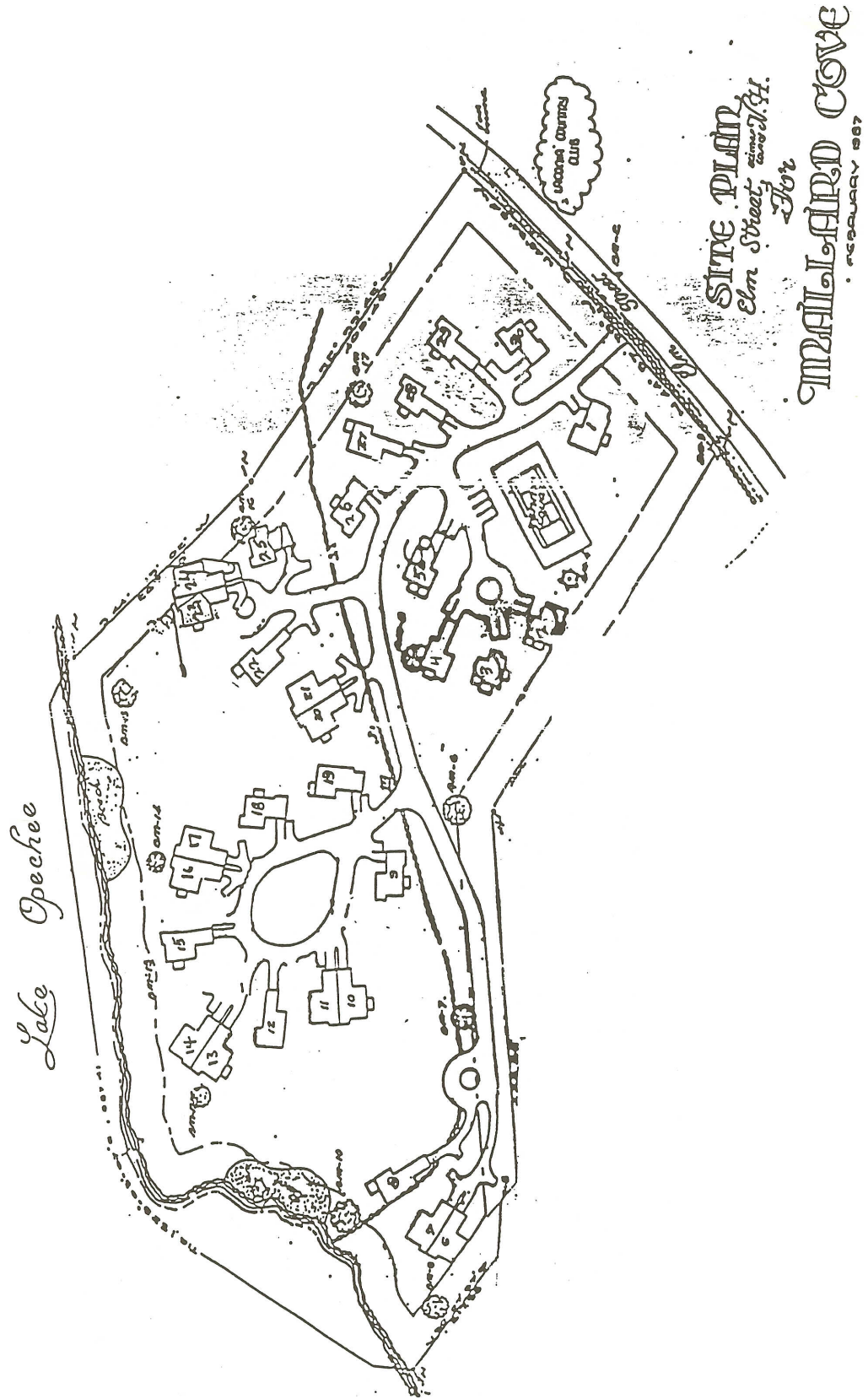
The above-described premises are subject to all rights-of-way and utility easements heretofore granted of record.

The condominium units are shown on Floor Plans entitled "Mallard Cove", prepared by Sheehan Design, Registered Engineers, to be recorded in the Belknap County Registry of Deeds.

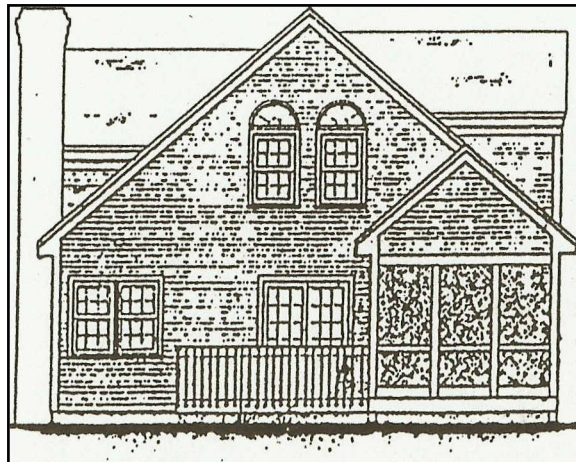
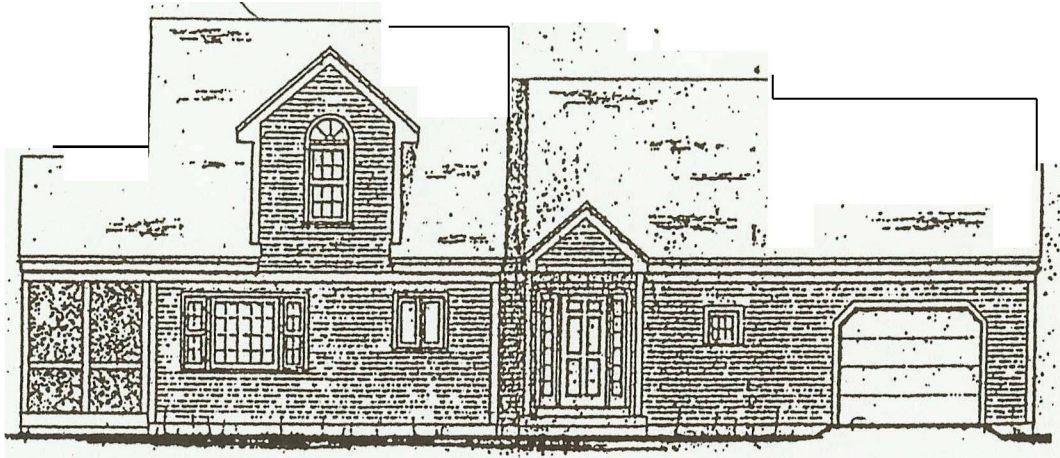
The above-described premises are subject to a Boundary Line Adjustment between the Declarant, Mallard Cove, Inc., and an abutter, Claude L. Richer. For a detailed description of the Boundary Line Adjustment, see Quitclaim Deeds from Mallard Cove to Claude L. Richer, and from Claude L. Richer to Mallard Cove, Inc., to be recorded of even date herewith. See also plan entitled "Property Line Adjustment Between Mallard Cove, Inc. and Claude L. Richer", prepared by J. R. Blais Associates, and recorded in Plan Book 143, Page 20 of the Belknap County Registry of Deeds.

The premises are also subject to an Easement Deed from the Declarant to Mallard Cove Condominium Association with respect to the access to and use of the two beaches shown on the site plan.

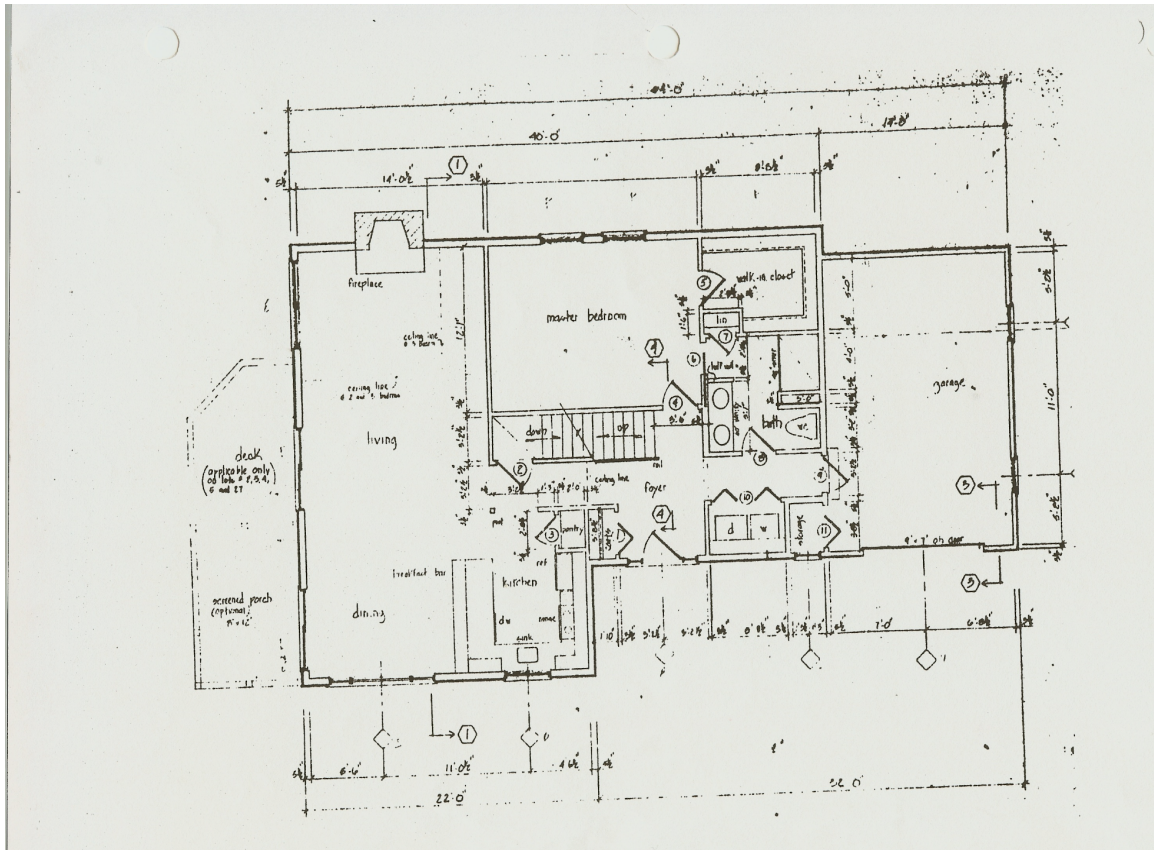
The Site Plan: Mallard Cove



THE "A" UNIT
1,451 +/- s.f.



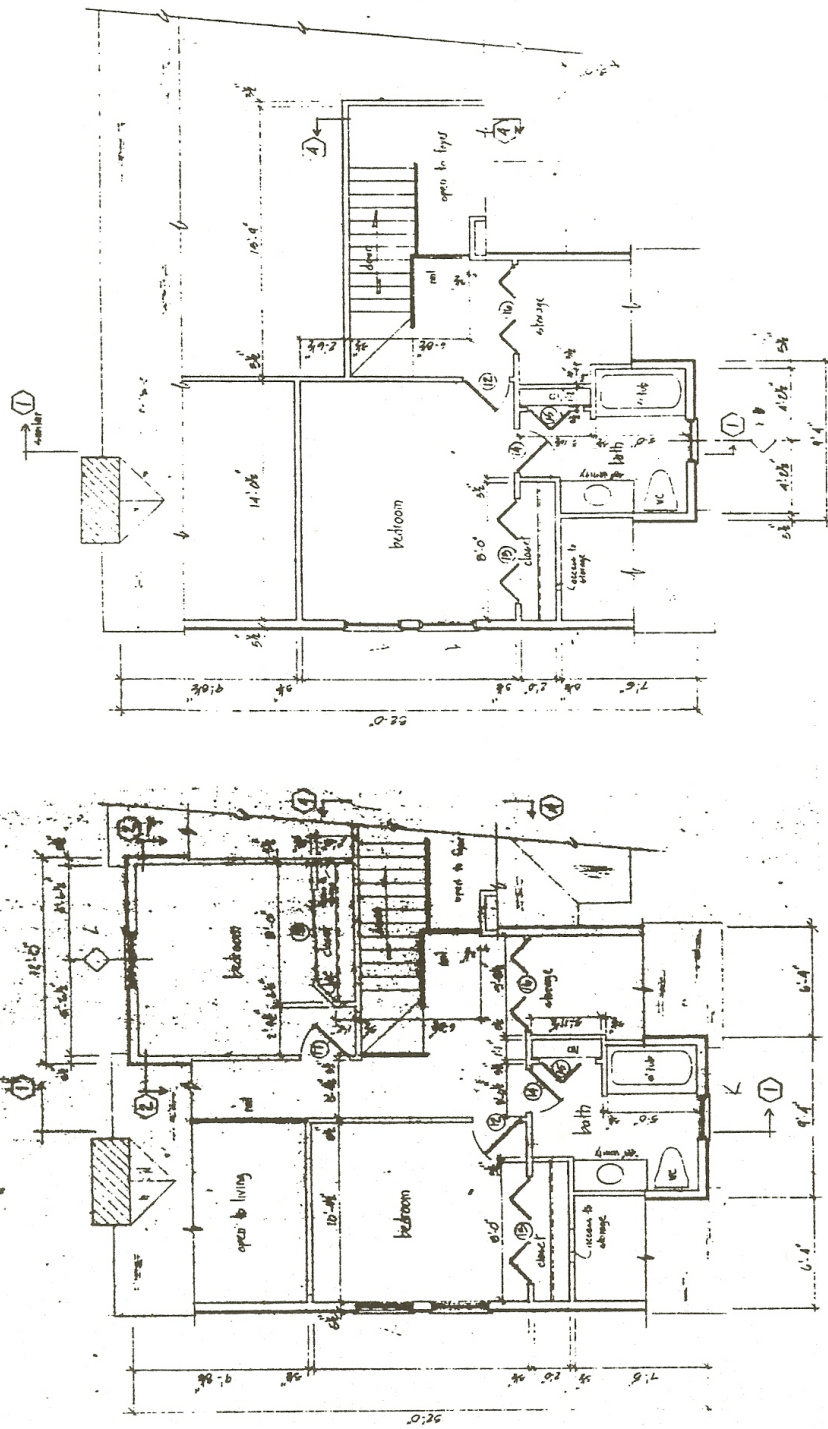
THE "A" UNIT MAIN LEVEL
1,126 +/- s.f.



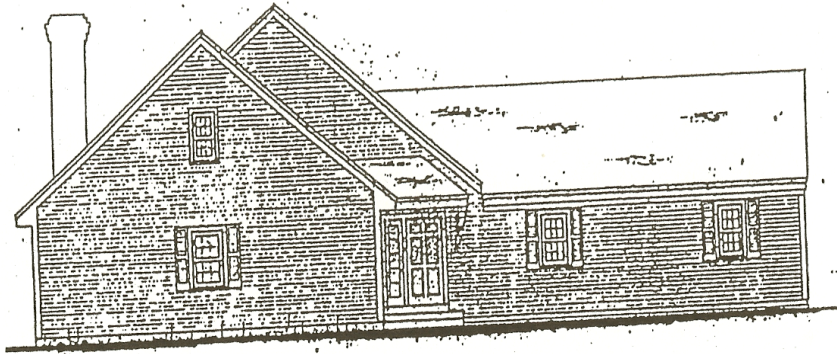
THE "A" UNIT

3 bedrooms upstairs – 505 +/- s.f.

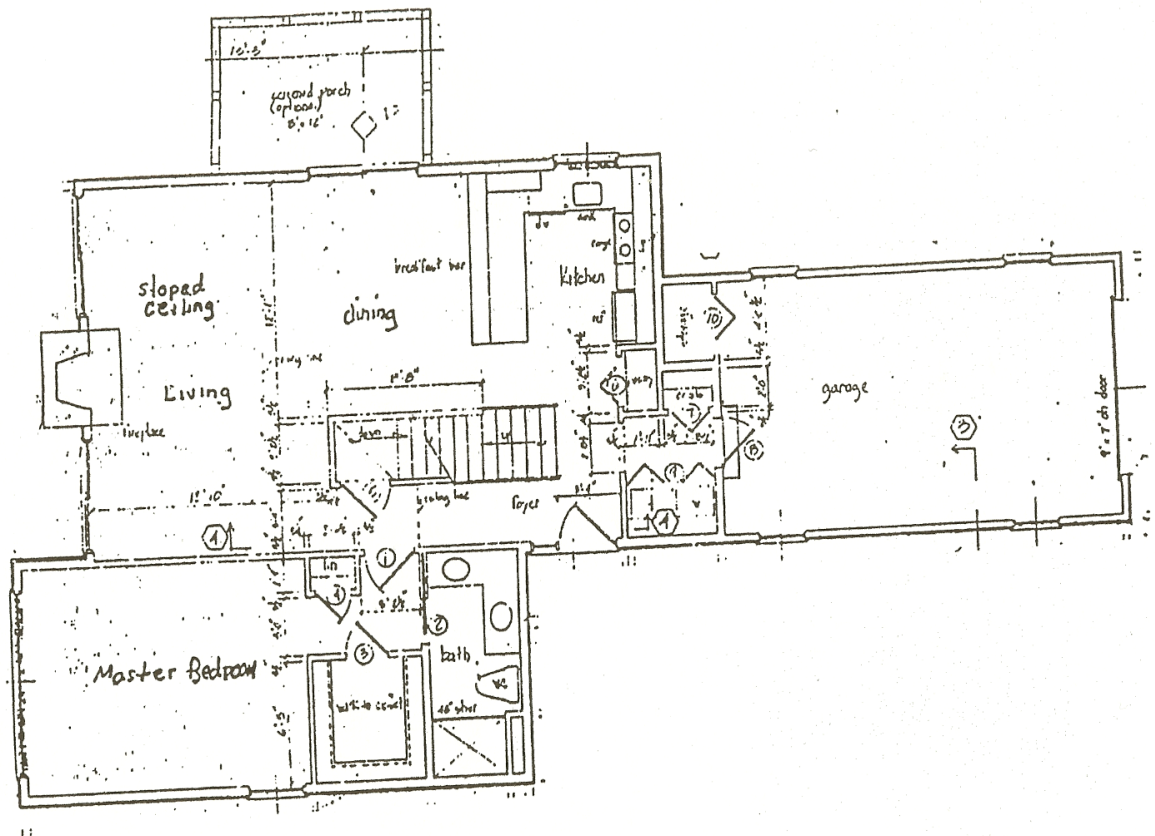
2 bedrooms upstairs – 325 +/- s.f.



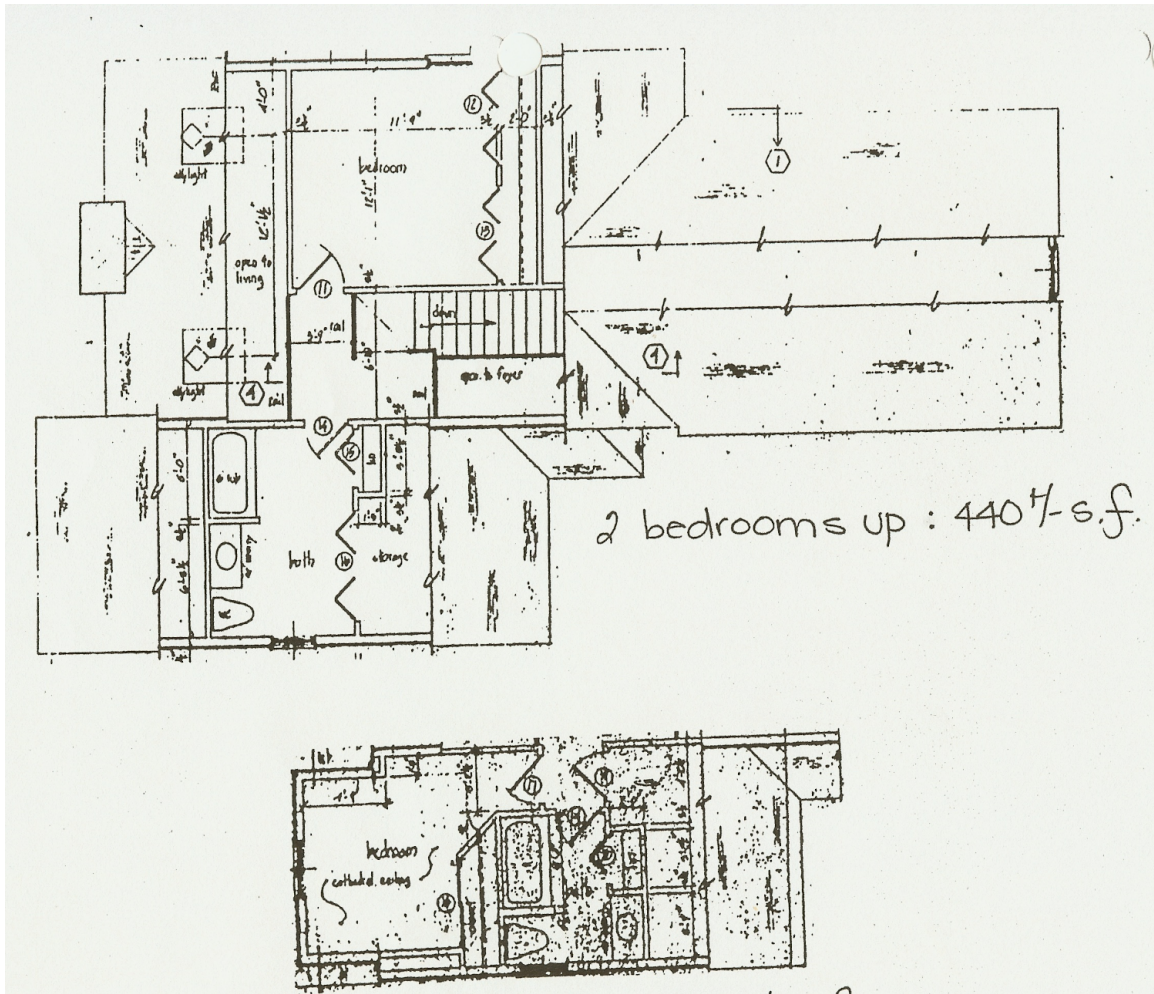
THE "B" UNIT
3 bedroom – 1,450 +/- s.f.
2 bedroom – 1,345 +/- s.f.



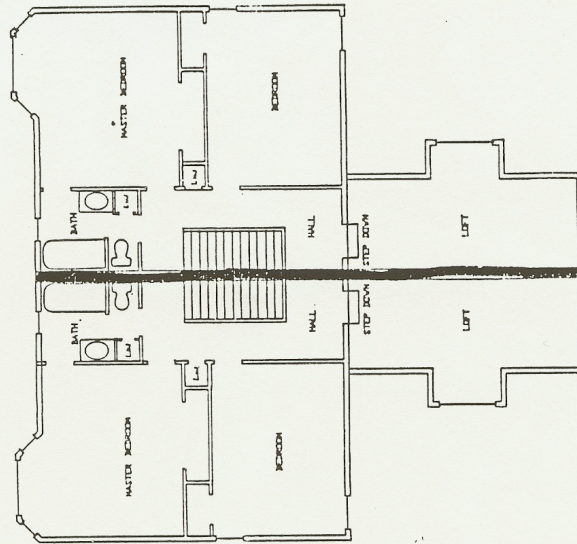
THE "B" UNIT
Main level – 1,010 +/- s.f.



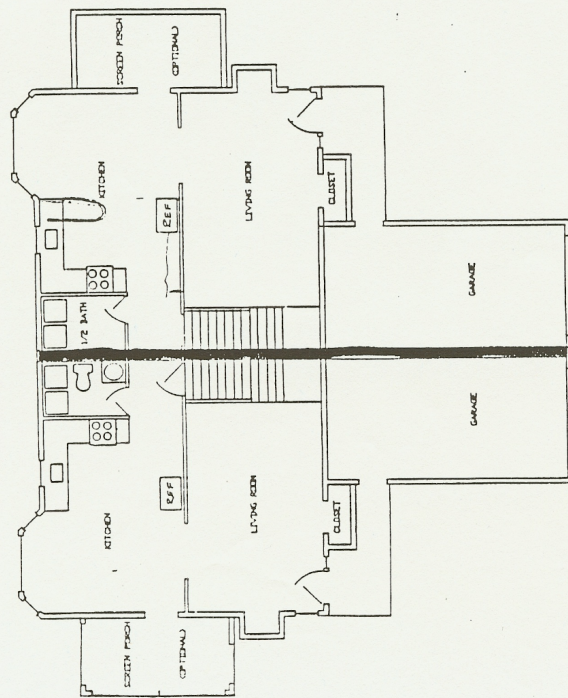
THE "B" UNIT
 2 bedrooms upstairs – 440 +/- s.f.
 1 bedroom upstairs – 335 +/- s.f.



THE "DUPLEX" UNIT
First & Second Floor Plan
1,625 +/- s.f.



second floor plan



first floor plan

**STATE OF NEW HAMPSHIRE
RECORD OF ORGANIZATION
MALLARD COVE CONDOMINIUM ASSOCIATION**

ARTICLES OF AGREEMENT

WE, the undersigned, being of lawful age, by these Articles of Agreement have associated, and do hereby associate ourselves together, as a body politic and corporate according to the provisions of New Hampshire RSA Chapter 292, and other laws and statutes of said State relating thereto and prescribing the duties and powers of corporations under the corporate name and for the purposes hereinafter set forth.

ARTICLE 1, NAME

- 1-100. The name of this corporation shall be MALLARD COVE CONDOMINIUM ASSOCIATION, and shall hereinafter be referred to as the "Association".

ARTICLE 2, PURPOSE

- 2-100. The purposes for which the Association is organized are as follows:
- 2-101. A condominium known as Mallard Cove, A Condominium has been developed on certain land located on Elm Street in Laconia, Belknap County, New Hampshire, and shown on a Site Plan entitled "Phase Plan for Mallard Cove, A Condominium". The Association is organized to provide a means of administering the condominium by the owners thereof.
- 2-102. The documents creating the condominium are to be recorded in the Belknap County Registry of Deeds.

2-103	<i>NOTE: Article 2-103 was amended on 7/15/2017 and recorded with the Belknap County Registry of Deeds on 7/31/2017, Book 3119, Page 111. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i>
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Original text:

The Association shall make no distributions of income to its members, directors, or officers.

Amended version dated 7/15/2017 and recorded on 7/31/2017:

The Association shall make no distributions of income to its members or directors.

ARTICLE 3, POWERS

- 3-100. The powers of the Association shall be governed by the following provisions:
- 3-101. The Association shall have all of the common law and statutory powers of a corporation not for profit, which are not in conflict with the terms of these Articles.
- 3-102. The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including but not limited to the following:
- That, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the members of the Association.
- 3-103. All funds and the titles to all properties acquired by the Association, and the proceeds thereof shall be held only for the benefit of the members in accordance with the provisions of the Condominium Instruments.
- 3-104. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium for Mallard Cove, A Condominium, which governs the use of the land.

ARTICLE 4, MEMBERS

- 4-100. The qualifications of members, the manner of their admission and voting by such members shall be as follows:
- 4-101. All unit owners shall be members of the Association, and no other persons or entities shall be entitled to membership.
- 4-102. Membership in the Association shall be established by the recording in the Belknap County Registry of Deeds of a deed or other instruments establishing a change of record title to a condominium unit in the condominium and the notification in writing to the Association of the recording information; the new owner designated by such instrument shall thereby become a member of the Association. The membership of the prior owner shall be thereby terminated.
- 4-103. The share of a member in the funds and assets of the Association cannot be assigned, pledged, or transferred in any manner except as an appurtenance to the individual condominium unit.

- 4-104. Members of the Association shall be entitled to one (1) vote for each unit owned by such members. Voting rights will be exercised in the manner provided by the By-Laws of the Association.

ARTICLE 5, DIRECTORS

- 5-100. The affairs of the Association will be managed by a board of not less than three (3) nor more than five (5) directors, as shall be determined by the By-Laws, and in the absence of such determination shall consist of three (3) directors.
- 5-200. Directors of the Association shall be appointed or elected at the Annual Meeting of the members in the manner determined by the By-Laws.
- 5-300. The names and addresses of the members of the first Board of Directors, who shall hold office until their successors are elected and have qualified or until removed are as follows:

<u>NAME</u>	<u>ADDRESS</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

ARTICLE 6, OFFICERS

- 6-100. The affairs of the Association shall be administered by Officers elected by the Board of Directors.

ARTICLE 7, INDEMNIFICATION

- 7-100. Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may be a party, or in which he may become involved by reason of his being or having been a Director or Officer of the Association, or with any settlement thereof, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director

or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors has approved such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such directors or officers may be entitled.

ARTICLE 8, BY-LAWS

- 8-100. The By-Laws of the Association shall be those By-Laws set forth with the aforesaid Declaration of Condominium and may be altered, amended, or rescinded in the manner provided by the said Declaration and By-Laws.

ARTICLE 9, AMENDMENTS

- 9-100. Amendments to the Articles of Agreement shall be proposed and adopted in the following manner:
- 9-101. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting in which a proposed amendment is considered.
- 9-102. A resolution approving a proposed amendment may be proposed by either the Board of Directors or by the membership of the Association, and after being proposed and approved by one of such bodies, it must be approved by the other. Such approvals must be by not less than two-thirds (2/3) of all of the members of the Association. Directors and members not present at the meeting considering the amendment may express their approval in writing within ten (10) days after such meeting. Agreement of the required majority of unit owners and Directors to such amendment shall be evidenced by the execution of the amendment by the owners or by the execution of the amendment by the President and Treasurer of the Association accompanied by certification of the vote of the owners by the Secretary; such amendment shall become effective only when either such Amendment or such Amendment and Certificate are recorded in the Belknap County Registry of Deeds.

ARTICLE 10, TERM

- 10-100. The term of the Association shall be the life of the condominium, unless the Association is terminated sooner by the unanimous action of its members. The Association shall be terminated by the termination of the condominium in accordance with the Condominium Instruments. Upon the dissolution of the Association, any assets remaining after payment of or provision for its debts and liabilities shall, consistent with the purposes of the Association, be paid over, assigned or conveyed to the Association members in proportion to their interest in the Association.

ARTICLE 11, INCORPORATORS

11-100. The names and addresses of the Incorporators to these Articles of Agreement are:

NAME

ADDRESS

**BY-LAWS AND RESIDENCY REGULATIONS
OF
MALLARD COVE CONDOMINIUM ASSOCIATION**

**BY-LAWS OF
MALLARD COVE CONDOMINIUM ASSOCIATION**

ARTICLE 1, PURPOSE AND DEFINITIONS

- 1-100. Purpose. The Administration of Mallard Cove, A Condominium (the "Condominium") shall be governed by these By-Laws which are annexed to the Declaration of said Condominium and are made a part thereof, and all present and future holders of any interest in any unit in the Condominium shall hold said interest subject to these By-Laws, the Declaration, and any Condominium Residency Regulations promulgated thereunder or hereunder.
- 1-200. Definitions. Certain of the terms used in these By-Laws have been defined in the Declaration and, when used herein, shall have the same meaning as set forth in the Declaration, unless the context clearly indicates a different meaning therefor.
- 1-300. Applicability of By-Laws. The provisions of these By-Laws are applicable to all of the property, which now constitutes or hereafter may be added to the Condominium, and to the use and occupancy thereof. All present and future owners, visitors, tenants, and occupants of units and any other persons who may use the facilities of the Condominium in any manner, are subject to these By-Laws, the Declaration, and the Condominium Residency Regulations. The Acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement to accept, to ratify, and to comply with these By-Laws, said Condominium Residency Regulations, and the provisions of said Declaration, as each or all of them may be amended from time to time.

ARTICLE 2, ASSOCIATION MEMBERS: MEETINGS

- | | |
|--------|---|
| 2-100. | <i>NOTE: Article 2-100 was amended on 7/29/2001 and recorded with the Belknap County Registry of Deeds on 8/27/2001, Book 1677, Page 800. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i> |
|--------|---|

Original text:

Members and Voting Rights. Each unit owner shall be a member of the Association. The membership of the Association shall consist of all of the

unit owners. Each unit owner shall be entitled to one vote for each condominium unit owned by him.

Amended version dated 7/29/2001 and recorded on 8/27/2001:

Members and Voting Rights. Each unit owner shall be a member of the Association. The membership of the Association shall consist of all of the unit owners. Each unit owner shall be entitled to one vote for each condominium unit owned by him. In the event of condemnation proceedings against the Common Areas of the condominium, the Association shall act on behalf of each owner.

- 2-200. Transfer of Membership. The Association shall not issue stock. Membership in the Association may be transferred only as an incident to the transfer of title to a unit as and in the manner provided for by the Declaration, and upon compliance with all of the terms thereof, shall become effective in accordance with the foregoing, upon recordation of a deed of conveyance to the said unit.
- 2-300. Annual Meeting. Commencing in 1988 the annual meeting of the Association shall take place on the third Saturday in July of each year at 10:00 A.M. at the Condominium, or at such other reasonable place or time or date as may be designated by written notice of the President or a majority of the Board of Directors.
- 2-400. Special Meetings. Special meetings of the owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration, these By-Laws, or the Act, require the approval of the owners, or for any other reasonable purpose. Said meeting shall be called by the President or by a majority of the Board of Directors upon at least seven (7) days written notice prior to the date of said meeting.
- 2-500. Contents of Notice. All notices of all members' meetings shall state the time and place thereof and the objects or purposes for which the meeting is called. Any such notice shall be deemed waived by any owner who expressly waives the same in writing or who is present in person or by proxy at any such meeting.
- 2-600. Quorum. At any meeting of the Association, the presence in person at the beginning of such meeting of owners holding at least one-fourth (1/4) of the owners total voting power, shall constitute a quorum, but less than a quorum may transact business if owners holding fifty percent (50%) of the voting power not present subsequently assent to the decisions made at said meeting by signing a copy of the Minutes thereof to be filed with the records of the Association. When a quorum is present, unless otherwise provided in the Declaration, these By-Laws, or the Act, a majority of the owners' total voting power present in person or by proxy shall decide any business brought before the meeting.
- 2-700. Voting. At any meeting of the Association, the owners shall be entitled to cast one vote for each condominium unit owned. Any owner may attend and vote at such meeting in person or by proxy. Any condominium units owned by the Declarant shall be entitled to a vote and shall be included in the total of

ownership percentages when computing the interest of all other owners for voting purposes. The provisions of RSA 356-B:39 shall govern all votes (including proxy votes and the votes of units owned by more than one person) at meetings of the Association.

- 2-800. Voting Requirements. An owner shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all assessments made or levied and due against him and his condominium unit by the Board of Directors as herein provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his condominium unit, at least three (3) days prior to the date fixed for such annual or special meeting.

ARTICLE 3, BOARD OF DIRECTORS

- 3-100. ***NOTE: Article 3-100 was amended on 7/29/2001 and recorded with the Belknap County Registry of Deeds on 8/27/2001, Book 1677, Page 800. AMENDED VERSION FOLLOWS ORIGINAL TEXT.***

Original text:

Number. The Board of Directors shall consist of three (3) persons to serve for a term of one (1) year or until their successors are duly elected as provided herein. The number of Directors and the terms of Directors shall be established at the Annual Meeting of the members by majority vote of the members entitled to vote at the meeting.

Amended version dated 7/29/2001 and recorded on 8/27/2001:

Number. The Board of Directors shall consist of five (5) persons to serve for a term of one (1) year unless voted otherwise at the annual meeting. Directors shall serve until their successors are duly elected as provided herein. The number of Directors, either three (3) or five (5) persons, and the terms of Directors shall be established at the annual meeting of the members by majority vote of the members entitled to vote at the meeting.

- 3-200. Vacancies. Vacancies in the Board of Directors may be filled until the date of the next Annual Meeting by the remaining Directors.
- 3-300. Terms of Office. The Directors shall be elected for staggered terms.
- 3-400. Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Special meetings of the Board of Directors may be called by the President or by a majority of the members of the Board of Directors by giving three (3) days' personal notice to all of the members of the Board of the time and place of said meeting and the purpose of the meeting. Any Director may waive notice of a meeting. A quorum shall be considered to be more than one-half of the members of the Board.

- 3-500. Presiding Officer. The presiding officer of the Board of Directors' meetings shall be the President of the Association. In the absence of a presiding officer, the Directors present shall designate one of their number to preside.

ARTICLE 4, POWERS AND DUTIES OF THE BOARD OF DIRECTORS

- 4-100. Powers and Duties of Board of Directors. The Board of Directors shall have powers and duties specifically conferred upon it by the Act, the Declaration, the Articles of Agreement, and these By-Laws and all other powers and duties necessary for the administration of the affairs of the Condominium, except as otherwise provided by law, the Declaration, the Articles of Agreement, or these By-Laws, including, without limiting the generality of the foregoing, the power and duty to obtain the following items for the benefit of the Condominium, all of which items shall be Common Expenses:
- 4-101. To make and collect assessments against members to defray the costs of the Condominium.
- 4-102. To use the proceeds of assessments in the exercise of its powers and duties.
- 4-103. To provide for the acquisition, construction, management, maintenance, and care of the Association property, whether real or personal.
- 4-104. To provide for the reconstruction of improvements after casualty and for the further improvement of the property.
- 4-105. To enforce by legal means the provisions of the Condominium Instruments, the Articles of Agreement, the By-Laws, and the Residency Regulations for the use of the property in the Condominium.
- 4-106. To contract for management of the Condominium and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the Condominium Instruments to have the approval of the Board of Directors or the membership of the Association.
- 4-107. Pay taxes and assessments, which are liens against any part of the Condominium, and to assess the same against the unit owners subject to such liens.
- 4-108. Carry insurance for the protection of unit owners and the Association against casualties and liabilities, including, but not limited to, fire insurance with extended coverage endorsements, public liability insurance policy or policies, and Workmen's Compensation insurance as required by law or as the Board may determine.
- 4-109. To pay the cost of all power, water, sewer and other utility services rendered to the Condominium and not billed to owners of individual units.
- 4-110. To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association such as,

but not limited to, any legal and accounting services necessary or proper for the operation of the Condominium or the enforcement of the provisions of the Act, the Declaration, the Articles of Agreement, these By-Laws, and the Condominium Residency Regulations.

- 4-111. To provide for trash collection, snow removal from the Common Areas, water, electrical, telephone, and gas and any other necessary utility service for the Common Area (and to the extent not separately metered or charged, for the units).
- 4-112. To provide for a fidelity bond naming the Manager, if any, and any other persons as may be designated by the Board, as principals, and the owners as obliges, for the first year in an amount equal to at least fifty percent (50%) of the estimated cash requirement for common expenses for that year as determined pursuant to the terms of these By-Laws and for each year thereafter in an amount equal to at least fifty percent (50%) of the total sum collected for Common Expenses during the preceding year.
- 4-113. To provide for such painting, maintenance, repair, and landscaping of the Common Area, the units, and such furnishings, tools, equipment, appliances, and other personal property for the Common Area as the Board shall determine is necessary or proper.
- 4-114. To provide for any emergency repairs to any unit necessary to prevent damage to other parts of the Condominium.
- 4-115. To provide for any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments which the Board is required to secure or pay for pursuant to the terms of the Declaration, the Articles of Agreement, these By-Laws, or the Act, or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of the Declaration or of these By-Laws, provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for particular units and are necessitated by the negligence of the owner or occupants of such units, the cost thereof shall be specially assessed to the owners of such units.
- 4-200. Financial Limitation. The Board's power shall be limited in that it shall have no authority to acquire and pay for out of Common Expenses capital additions and improvements or structural alterations (other than for the purposes of replacing portions of the Common Area, subject to the provisions of the Declaration) having a cost in excess of Five Thousand (\$5,000.00) Dollars unless such additions, improvements, or alterations have been approved by a majority of the owners' total voting power.
- 4-300. Right to Contract. The Board shall have the exclusive right to contract for all such items referred to in this Article.

ARTICLE 5, OFFICERS OF THE ASSOCIATION

NOTE: *Article 5 was amended on 7/19/2010 and recorded with the Belknap County Registry of Deeds on 8/20/2010, Book 2657, Page 0417. Two new Board of Director positions (Vice President and Maintenance Director) were designated. The insertion of these positions into the existing Article necessitated the renumbering of some of the items. AMENDED VERSION FOLLOWS ORIGINAL TEXT.*

Original text:

- 5-100. Executive Officers. The Executive Officers of the Association shall be a President, who shall be a Director, a Secretary and a Treasurer, all of whom shall be elected annually by the Board of Directors and who may be removed by a vote of the Directors at any meeting. The Board of Directors shall, from time to time, elect such other officers and committees and designate their powers and duties as the Board determines necessary to manage the affairs of the Association.
- 5-200. The President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the unit owners and of the Board of Directors. He shall have all of the powers and duties which are usually vested in the office of president of an association, including but not limited to the power of appointing committees from among the members from time to time as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association, and the power to sign all written contracts of the Association.
- 5-300. The Secretary. The Secretary shall keep the Minutes of the proceedings of the Board of Directors and of the unit owners. He shall attend to the giving and serving of all notices required by law. He shall have custody of the seal of the Association, if any, and shall affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President.
- 5-400. The Treasurer.
- 5-401. Custody of Funds. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association.
- 5-402. Disbursement of Funds. He shall disburse the funds of the Association as may be ordered by the Board in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and the Board of Directors at the regular meeting of the Board of Directors, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the corporation.

- 5-403. Collection of Assessments. He shall collect the assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors.
- 5-404. Reports to Transferees. He shall also give status reports to potential transferees, on which reports the transferees may rely.
- 5-500. Continuance of Owner's Liability. The liability of the owners shall continue until the Association has been notified of a unit transfer, and all such transferees shall be deemed, jointly and severally, liable with the previous owners for past due assessments (other than institutional mortgagees purchasing at institutional mortgage foreclosure sales or purchasing at sales in lieu of such foreclosure sales).
- 5-600. Compensation. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Condominium.
- Amended version dated 7/19/2010 and recorded 8/20/2010:***
- 5-100. Executive Officers. The Executive Officers of the Association shall be a President, who shall be a Director, a Secretary and a Treasurer, all of whom shall be elected annually by the Board of Directors and who may be removed by a vote of the Directors at any meeting. The Board of Directors shall, from time to time, elect such other officers and committees and designate their powers and duties as the Board determines necessary to manage the affairs of the Association.
- 5-200. The President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the unit owners and of the Board of Directors. He shall have all of the powers and duties which are usually vested in the office of president of an association, including but not limited to the power of appointing committees from among the members from time to time as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association, and the power to sign all written contracts of the Association.
- 5-300. The Vice President. The Vice President shall have all the executive and stipulating powers of the President in the event that the President is unable to perform his or her duties.
- 5-400. The Secretary. The Secretary shall keep the Minutes of the proceedings of the Board of Directors and of the unit owners. He shall attend to the giving and serving of all notices required by law. He shall have custody of the seal of the Association, if any, and shall affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President.

- 5-500. The Treasurer.
- 5-501. Custody of Funds. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association.
- 5-502. Disbursement of Funds. He shall disburse the funds of the Association as may be ordered by the Board in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and the Board of Directors at the regular meeting of the Board of Directors, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the corporation.
- 5-503. Collection of Assessments. He shall collect the assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors.
- 5-504. Reports to Transferees. He shall also give status reports to potential transferees, on which reports the transferees may rely.

5-600	<i>NOTE: Article 5-600 was amended on 7/15/2017 and recorded with the Belknap County Registry of Deeds on 7/31/2017, Book 3119, Page 113. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i>
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Original text:

Maintenance Director. The Maintenance Director is responsible for all planned and budgeted maintenance of Mallard Cove Condominium Association property and structures. He/she shall obtain and present to the Board of Directors all necessary in-force insurance documents from licensed contractors as well as obtaining all project permits as required by the State of New Hampshire, City of Laconia, etc. The Maintenance Director will require Board of Director approval for any project, service, etc., with a total cost in excess of \$1,000.

Amended version dated 7/15/2017 and recorded on 7/31/2017:

V.P. Maintenance. The V.P. Maintenance is responsible for all planned and budgeted maintenance of Mallard Cove Condominium Association property and structures. He/she shall obtain and present to the Board of Directors all necessary in-force insurance documents from licensed contractors as well as obtaining all project permits as required by the State of New Hampshire, City of Laconia, etc. The V.P. Maintenance will require Board of Director approval for any project, service, etc., with a total cost in excess of \$1,000

- 5-700. Continuance of Owner's Liability. The liability of the owners shall continue until the Association has been notified of a unit transfer, and all such transferees shall be deemed, jointly and severally, liable with the previous

owners for past due assessments (other than institutional mortgagees purchasing at institutional mortgage foreclosure sales or purchasing at sales in lieu of such foreclosure sales).

5-800	<i>NOTE: Article 5-800 was amended on 7/15/2017 and recorded with the Belknap County Registry of Deeds on 7/31/2017, Book 3119, Page 115. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i>
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Original text:

Compensation. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Condominium.

Amended version dated 7/15/2017 and recorded on 7/31/2017:

Compensation. The Association waives the requirements of RSA 356-B:40, II-a, and authorizes compensation to Officers as provided in the annual budget.

This shall be voted on annually by the members and two-thirds (2/3rds) of the membership present must vote in favor of this authorization. This authorization shall not be understood to authorize payment to the Directors, except where a Director is also an Officer eligible to receive an authorized payment and such payment shall only be understood to be for this individual's service as an Officer, not as a Director. This shall be voted on by all members, separately from and prior to the ratification of the budget. This authorization shall be renewed, modified, or discontinued by annual vote of the members.

ARTICLE 6, FINANCE AND ASSESSMENTS

6-100. Depository. The funds of the Association shall be deposited in a bank or banks in New Hampshire, designated by the Board of Directors, in an account or accounts for the Association under resolutions approved by the Board of Directors.

6-200	<i>NOTE: Article 6-200 was amended on 7/22/2007 and recorded with the Belknap County Registry of Deeds on 8/03/2007, Book 2429, Page 704. This Article was further amended on 7/15/2017 and recorded with the Belknap County Registry of Deeds on 7/31/2017, Book 3119, Page 119. AMENDED VERSIONS FOLLOW ORIGINAL TEXT.</i>
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Original text:

6-200 Adoption of and Contents of Budget. The Board of Directors shall prepare and submit an estimated budget for each fiscal year ending May 31 for

approval at the Annual Meeting of the Association. The Board shall have the authority to adjust the budget as provided by Article 10-300 of the Declaration. The budget shall contain estimates of the cost of performing the functions of the Association, and the income of the Association, including but not limited to the following items:

(a) Common expense budget for:

- (1) Maintenance and operation of Common Area, landscaping, street and walkways, and security guards, if any;
- (2) Maintenance and repairs of structures;
- (3) Capital funds established by vote of unit owners;
- (4) Utilities;
- (5) Liability insurance;
- (6) Casualty insurance;
- (7) Administration, including legal and accounting;

(b) Proposed assessments against each member.

(c) A unit owner shall be billed retroactively for any increase in maintenance fees adopted at the Annual Meeting next following the close of the fiscal year.

Amended version dated 7/22/2007 and recorded 8/03/2007:

Adoption of and Contents of Budget. The Board of Directors shall prepare and submit an estimated annual budget for approval at the Annual Meeting of the Association. The Board shall have the authority to adjust the budget as provided by Article 10-300 of the Declaration. The budget shall contain estimates of the cost of performing the functions of the Association, and the income of the Association, including but not limited to the following items:

(a) Common expense budget for:

- (1) Maintenance and operation of Common Area, landscaping, street and walkways, and security guards, if any;
- (2) Maintenance and repairs of structures;
- (3) Capital funds established by vote of unit owners;
- (4) Utilities;
- (5) Liability insurance;
- (6) Casualty insurance;

- (7) Administration, including legal and accounting;
- (b) Proposed assessments against each member.
- (b) A unit owner shall be billed retroactively for any increase in maintenance fees adopted at the Annual Meeting next following the close of the fiscal year.

Amended version dated 7/15/2017 and recorded 7/31/2017:

Adoption and Contents of Budget. The Board of Directors shall adopt the budget(s) annually. A summary of the budget(s), including any reserves, and a statement of the basis on which any reserves are calculated and funded, shall be sent to the owners at least ten (10) days, but not more than sixty (60) days, before the meeting of the Members to ratify the budget(s). The members are prohibited from amending, changing or modifying the budget(s) as presented by the Board of Directors. The Members may only reject the budget(s) by a two-thirds (2/3rds) vote of all Members. The Board shall have the authority to adjust the budget(s) as provided by Article 10-300 of the Declaration. The budget(s) shall contain estimates of the cost of performing the operational functions of the Association as well as for long-term capital funding requirements.

- 6-300. Payment of Assessments and Common Expenses. All assessments and common expenses shall be assessed equally to each unit owner. Unless otherwise determined by the Board of Directors, each unit owner shall pay his proportionate share of common expenses and assessments in equal, monthly payments. All such payments shall be due and payable in advance on the first day of each month for said month. The Board shall maintain, at all times, an adequate reserve for maintenance, repairs and replacement of the common elements and payments into this reserve shall be included as part of the monthly maintenance fee.
- 6-400. Delinquent Assessments. In the event an assessment is not paid on the date it is due and payable, the Association, through its Board of Directors, may proceed to enforce and collect the said assessment, with interest at the maximum lawful rate, against the unit owner owing the same in the manner set forth in RSA 356-B:46. Each delinquent unit owner shall be responsible for attorney's fees, interest and costs incurred by the Association incident to the collection of such delinquent assessments or enforcement of any lien held by the Association for unpaid assessments, in accordance with Article 10-200 of the Declaration of Condominium. The Association may also assess unit owners a \$5.00 duplicate billing charge for each month that an assessment or common expense remains unpaid.

<p>NOTE: <i>Article 6 <u>Finance and Assessments</u> was amended on 7/29/2001 to include the addition of 6-500, 6-600, 6-700, and 6-800(a) and (b). These were recorded with the Belknap County Registry of Deeds on 8/27/2001, Book 1677, Page 801.</i></p>

Additions of 6-500 through 6-800:

6-500.	NOTE: ARTICLE 6-500 was amended on 11/30/2005 and recorded with the Belknap County Registry of Deeds on 12/28/2005, Book 2257, Page 511. It was again amended on 8/31/2013 and recorded on 9/12/2013, Book 2875, Page 365. The Article was further amended on 7/15/2017 and recorded on 7/31/2017, Book 3119, Page 121. The Article was further amended on 7/21/2018 and recorded on 8/01/2018, Book 3186, Page 698. AMENDED VERSIONS FOLLOW ORIGINAL TEXT.
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Original text dated 7/29/2001 and recorded on 8/27/2001:

Initial Assessment. Upon the transfer or sale of any unit at Mallard Cove, A Condominium Association, the Buyer of said unit will be assessed the sum of Five Hundred (\$500.00) dollars as a contribution to the capital of the Association and/or an operating reserve as the Board may deem necessary. This assessment is to be collected at closing by the selling or conveying party or his agent and is to be delivered to the Unit Owners' Association or its agent with five (5) days of recording of the unit deed.

Amended version dated 11/30/2005 and recorded on 12/18/2005:

Initial Assessment. Upon the transfer or sale of any unit at the Condominium, the buyer of said unit will be assessed the sum of One Thousand (\$1,000.00) dollars as a contribution to the capital of the Association and/or an operating reserve. This assessment is to be collected at closing by the selling or conveying party or his agent and is to be delivered to the Unit Owners' Association or its agent within five (5) days of recording of the unit deed.

Amended version dated 8/31/2013 and recorded on 9/12/2013:

Initial Assessment. Upon the transfer or sale of any unit at the Condominium, the buyer of said unit will be assessed the sum of One Thousand (\$1,000.00) dollars as a contribution to the capital of the Association and/or an operating reserve. This assessment is to be collected at closing by the selling or conveying party or his agent and is to be delivered to the Unit Owners' Association or its agent within five (5) days of recording of the unit deed. If the buyer of said unit is a current Mallard Cove homeowner in good standing, and is also selling his/her unit, the initial assessment on the new unit being purchased will be waived. If the current Mallard Cove homeowner is not selling his/her unit, the initial assessment will apply on the newly purchased unit. The initial assessment will still apply to the sale of a unit to anyone not currently a Mallard Cove owner.

Amended version dated 7/15/2017 and recorded on 7/31/2017:

Initial Assessment. Upon the transfer or sale of any unit at the Condominium, the buyer of said unit will be assessed the sum of One Thousand Five Hundred (\$1,500.00) dollars as a contribution to the capital of the Association and/or an operating reserve. This assessment is to be collected at closing by the selling or conveying party or his agent and is to be delivered to the Unit Owners' Association or its agent within five (5) days of recording of the unit deed

Amended version dated 7/21/2018 and recorded on 8/01/2018:

Initial Assessment. Upon the transfer or sale of any unit at the Condominium, the buyer of said unit will be assessed the sum of One Thousand Five Hundred (\$1,500.00) dollars as a contribution to the capital of the Association and/or an operating reserve. This assessment is to be collected at closing by the selling or conveying party or his agent and is to be delivered to the Unit Owners' Association or its agent within five (5) days of recording of the unit deed. If the buyer of said unit is a current Mallard Cove homeowner in good standing, and is also selling his/her unit, the initial assessment on the new unit being purchased will be waived. If the current Mallard Cove homeowner is not selling his/her unit, the initial assessment will apply on the newly purchased unit. The initial assessment will still apply to the sale of a unit to anyone not currently a Mallard Cove owner.

6-600. Operating Reserves. The Board of Directors shall establish an operating reserve, which will consist of any surplus funds remaining at year-end. This reserve shall be used by the Board to offset any shortfall in assessments, which may take place during the year, and to insure that all operating costs of the association are paid.

6-700. Special Assessments. If for any reason, including the nonpayment of any owners' assessments, or emergency repairs or unforeseen maintenance, the reserves are inadequate, the Board of Directors shall call a special meeting of the Association for the purpose of voting on a special assessment to replenish reserves. Upon an affirmative vote of more than 50% of the unit owners in good standing attending this special meeting in person or by proxy, this assessment shall become due and payable as determined by the Board of Directors.

6-800. Maintenance and Repair.

(a) By the Board of Directors: Except as otherwise provided by section 6-800(b) below, the Board of Directors shall be responsible for the maintenance, repair and replacement (unless necessitated by the negligence, misuse or neglect of an owner or a person gaining access to the unit with the owner's express or implied consent, in which case such expense shall be assessed to such owner) of all of the Common Area as defined in Article 2, Section 2-400, of the Declaration, including maintenance of and payment of common utility charges for the Association, such costs shall be charged as common expenses pursuant to Article 6, Section 6-200(a)(1) of the By-Laws.

(b) By the Owner: As provided by Article 5 of the Declaration, except for the portions of the unit required to be maintained, repaired and replaced by the Board of Directors, and except as provided in Article 3 of the Declaration, relating to repair and reconstruction after fire or other casualty, each owner shall be responsible for the maintenance, repair and replacement, at his own expense, of his unit and any part thereof, as defined in Article 2, Section 2-300, 2-301, 2-302 of the Declaration.

ARTICLE 7, VIOLATIONS

7-100	<i>NOTE: Article 7-100 was amended on 7/29/2001 and recorded with the Belknap County Registry of Deeds on 8/27/2001, Book 1677, Page 802. AMENDED VERSION FOLLOWS ORIGINAL TEXT.</i>
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Original text:

Violations. In the event of a violation (other than the non-payment of an assessment) by a unit owner of any of the provisions of the Declaration, the Articles of Agreement, these By-Laws, the Residency Regulations, or the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the unit owner by written notice of such breach, and if such violation shall continue for a period of thirty (30) days from the date of this notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration, the Articles of Agreement, the By-Laws, the Residency Regulations, or the pertinent provisions of the Condominium Act, and the Association may then, at its option, have the following election: (a) an action at law to recover for its damage on behalf of the Association or on behalf of the other unit owners; (b) an action in equity to enforce performance on the part of the unit owner; or (c) an action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief. Failure on the part of the Association to maintain such an action at law or in equity within ninety (90) days from date of a written request, signed by a unit owner, sent to the Board of Directors, shall authorize any unit owner to bring an action in equity or suit at law on account of the violation. Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter.

Amended version dated 7/29/2001 and recorded on 8/27/2001:

ARTICLE 7, COMPLIANCE AND DEFAULT

7-100. Each owner shall be governed by, and shall comply with all of the terms of the Declaration, these By-laws, the Rules and Regulations adopted by the Board, and any amendments of the same. A default by an owner shall entitle the Unit Owners' Association acting through the Board of Directors or the manager to the following relief:

- (a) Legal Proceedings. Failure to comply with any of the terms of the Declaration, these By-laws, the Rules and Regulations adopted by the Board shall be grounds for relief which may include without limiting the same, the assessment of fines for violations of the Rules or By-Laws, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessment, any other relief provided for in these By-laws, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all relief may be sought

by the Unit Owners' Association, the Board of Directors, the manager, or if appropriate, any appointed agent thereof.

- (b) Additional Liability. Each owner shall be liable for the expenses of all maintenance, repair or replacement rendered necessary by his acts, neglect or carelessness or the act, neglect or carelessness of any member of his family, or tenants, guests, employees, agents or invitees.
- (c) Costs of Attorneys' Fees. In any proceeding arising out of any alleged default by an owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorneys' fees as may be determined by the court. The Association shall be entitled to all costs and attorneys' fees incurred in connection with any proceedings arising out of a violation. (RSA 356B:1511)
- (d) No Waiver of Rights. The failure of Unit Owners' Association, the Board of Directors, or of any owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration, these By-laws or the Rules, shall not constitute a waiver of the right of the Association or the Board of Directors to enforce such right, provision, covenant, or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any owner pursuant to the terms, provision, covenants and conditions of the Declaration or the Rules shall be deemed cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration, these By-laws or the Rules, or at law or in equity.
- (e) Billing Fees and Interest. The Board of Directors shall have the authority to impose a billing fee of twenty (\$20.00) dollars on any owners who fail to make timely payment of any assessment (10 days). In the event of default by any owner, which continues for a period of thirty (30) days or more, the owner shall be obligated to pay interest at a uniformly applied rate, not to exceed the highest rate allowed by law, from the due date thereof.
- (f) Abatement and Enjoinment of Violations by Owners. The violations of any rule or regulation adopted by the Board of Directors, or the breach of any of the By-laws contained herein, or the breach of any provision of the Declaration, shall give the Board of Directors or the Manager the right, in addition to any other rights set forth in these By-laws to:
 - (1) After notice, except on an emergency basis, enter the unit in which such violation or breach exists and summarily to abate and remove, at the expense of the defaulting owner, any structure, thing or condition that may exist therein contrary to the intent and meaning or the provisions hereof and the Board of Directors or Manager or their agents shall not thereby be deemed guilty in any manner of trespass;

- (2) Enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.
- (3) Suspend or limit the right of the owner, or his tenant, committing the violation to use any part of the Common Area during the continuance of such violation.

ARTICLE 8, NOTICES TO OR FROM MORTGAGEES

- 8-100. Notice to Board. A unit owner who mortgages his condominium unit shall notify the Board of the name and address of his mortgagee and the principal amount of such mortgage. The Board shall maintain suitable records pertaining to such mortgages.
- 8-200. The Board, whenever so requested in writing by a mortgagee of a condominium unit, shall promptly report any then unpaid assessments for common expenses due from, or any other default by, the owner of the mortgaged condominium unit. The Board shall be entitled to require a fee of ten dollars (\$10.00) for each report provided a mortgagee.
- 8-300. The Board shall give written notice to an owner of any default by the owner in the performance of any obligations under the Act, Declaration or By-Laws and, if such default is not cured within thirty (30) days, shall send a copy of such notice to each holder of a mortgage covering such unit whose name and address has theretofore been furnished to the Board. No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to the Declaration or these By-Laws except after ten (10) days' written notice to the holder of the first mortgage on the unit which is the subject matter of such suit or proceeding.
- 8-400. The Board of Directors shall notify the mortgagee of a unit whenever damage to the unit covered by the mortgage exceeds five thousand (\$5,000.00) dollars and the Board is made aware of such damage; and all mortgagees whenever damage to the Common Area exceeds ten thousand (\$10,000.00) dollars.

ARTICLE 9, NOTICE

- 9-100. Notices. Whenever notices are required to be sent hereunder, the same shall be sent:
- 9-101. To Unit Owners. To the unit owners by mail at the addresses such unit owners may have designated to the Board of Directors.
- 9-102. To Association. To the Association by mail at Mallard Cove, A Condominium, Elm Street, Laconia, New Hampshire 03246.
- 9-200. Deemed sent when mailed. All notices shall be deemed and considered sent when mailed.

- 9-300. Change of place of notice. Any party may reserve the right to change the place of notice to him or it by written notice in accordance with the terms and provisions of this Article.

ARTICLE 10, AMENDMENTS TO THE BY-LAWS

- 10-100. Amendments to the By-Laws. These By-Laws may be amended at any regular or special meeting of the Association, provided a copy of the proposed amendment has been included in the written notice of the meeting. No modification or amendment shall become effective until recorded in the Belknap County Registry of Deeds. An amendment may be proposed by either the Board of Directors or by the membership of the Association.

ARTICLE 11, RESIDENCY REGULATIONS

- 11-100. Residency Regulations. The Association may, from time to time, adopt and amend previously adopted administrative Residency Regulations governing the details of the operation and use of the Common Area and the units in the Condominium; provided, however, that no such Residency Regulations shall conflict with the Declaration, these By-Laws or the provisions of the Condominium Act, and in the event of any conflict between the said Residency Regulations and the foregoing, the latter shall prevail. The Board of Directors shall, from time to time, post in a conspicuous place on the Condominium property a copy of the Residency Regulations adopted from time to time by the Association. These Residency Regulations may be amended by the vote of two-thirds or more of the total voting power of all unit owners before such shall become effective.

ARTICLE 12, RESALE BY PURCHASER

- 12-100. In the event of any resale of a condominium unit or any interest therein by any person other than the Declarant, the prospective unit owner shall have the right to obtain from the Owners' Association, prior to the contract date of the disposition, the following:
- (a) Appropriate statements pursuant to RSA 356-B:46, VIII and, if applicable, RSA 356-B:47;
 - (b) A statement of any capital expenditures and major maintenance expenditures anticipated by the Unit Owners' Association within the current or succeeding two fiscal years;
 - (c) A statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the Board of Directors;

- (d) A copy of the income statement and balance sheet of the Unit Owners' Association for the last fiscal year for which such statement is available;
- (e) A statement of the status of any pending suits or judgments in which the Unit Owners' Association is a party defendant;
- (f) A statement setting forth what insurance coverage is provided for all unit owners by the Unit Owners' Association and what additional insurance coverage would normally be secured by each individual unit owner; and
- (g) A statement that any improvements or alterations made to the unit, or the limited Common Areas assigned thereto, by the prior unit owner are not known to be in violation of the condominium instruments.

NOTE: Article 12-100A was added on 7/29/2001 and recorded with the Belnap

NOTE: Article 12-100A was added on 7/29/2001 and recorded with the Belnap County Registry of Deeds on 8/27/2001, Book 1677, Page 804.

12-100A. Leases. Unit owners desiring to lease units must submit a copy of the proposed lease to the Board of Directors for approval prior to executing said lease. Unit owners, leasing their units hereby agree that they will provide the Association the names of all tenants, telephone numbers and contact persons within ten (10) days of said agreement. Unit owner leasing his unit shall provide copies of the Declaration, By-Laws and Residency Regulations to all tenants. Unit owners agree that, after notification by the Board of Directors that a tenant has repeatedly violated the Declaration, By-Laws or Residency Regulations of the Association, he will initiate eviction proceedings against said tenants. Failure to provide the Association with a copy of a lease or the tenant information or to comply with this paragraph shall constitute a violation of the By-Laws and result in a fine. All leases will conform to New Hampshire law and to the following specifications:

- (a) Leases must specify the full names of all proposed tenants authorized to occupy the unit.
- (b) No sublease of any unit shall be permitted.
- (c) Leases shall state that the tenant acknowledges that he has received copies of the Declaration, By-Laws and Residency Regulations and agrees to comply with them.
- (d) Leases must contain the following statement: "This lease will terminate and eviction proceedings will be initiated upon notification that the tenant has repeatedly violated the Residency Regulations, By-Laws or Declaration of the Condominium Association."

This lease will terminate and eviction proceedings will be initiated upon notification that the tenant has repeatedly violated the Residency Regulation, By-Laws or Declaration of the Condominium Association.

- 12-200. The principal officer of the Unit Owners' Association, or such other officer or officers as the condominium instruments may specify, shall furnish the statements prescribed by this paragraph upon the written request of any prospective unit owner within 10 days of the receipt of such request.

NOTE: Article 12-300 was added on 7/29/2001 and recorded with the Belknap County Registry of Deeds on 8/27/2001, Book 1677, Page 803.

- 12-300. Owners' failure to comply. In the event that any Unit Owner shall contract to sell or transfer title to his Unit, he shall notify the Clerk of the Board of Directors within ten (10) days prior to such sale. The Board of Directors shall provide the Seller with a Certificate complying with the New Hampshire Revised Statutes Annotated 356-B:58, stating that all assessments relating to the subject unit have been paid. Such Certificates shall be recorded in the Belknap County Registry of Deeds. In the event that such assessments shall not have been paid and the Seller of a unit shall not satisfy such amount as of the date of the sale, the Board of Directors shall not issue the said Certificate provided. The failure of the seller of any unit to acquire the said Certificate shall bind the purchaser/grantee to pay and satisfy any unpaid assessments of the seller and the Board of Directors shall have the right to assert all of its remedies against such purchaser/grantee for any unpaid assessments. The failure of any buyer or seller to notify the Board of Directors of any proposed sale or transfer, whether completed or not, shall result in a fine of one hundred (\$100.00) dollars, which shall constitute a special assessment against that unit.

ARTICLE 13, SEVERABILITY: GENDER: INTERPRETATION

- 13-100. Severability. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance hereof or the Declaration.
- 13-200. Gender. The use of the masculine gender herein shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so required.
- 13-300. Interpretation. The provisions of these By-Laws shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project.

The foregoing were adopted as the By-Laws of Mallard Cove Condominium Association, a condominium association, not for profit, organized under the laws of the State of New

Hampshire, at the first meeting of the Board of Directors on the _____ day of _____, 1987.

Secretary

APPROVED:

President

RESIDENCY REGULATIONS OF MALLARD COVE, A CONDOMINIUM

1. Units shall be occupied and used only for private residential purposes by the owner and his family, or by guests or authorized lessees of the owner as hereinafter provided and not for any business or commercial use whatsoever. Units shall not be used to house more people than they are reasonably designed to accommodate. The provisions of this paragraph shall not apply to the Declarant, its successors or assigns.
2. Owners shall neither make nor permit their guests or invitees to make any improper, offensive or unlawful use of any property comprising the condominium. In particular, no use shall be made of any unit, which would become an annoyance or nuisance to the other unit owners.
3. Each owner shall keep and maintain the interior of his unit and storage area, the interior of exterior doors and fixtures and appliances located therein in good condition and repair at all times. Storage areas shall be maintained in a neat, orderly condition at all times; the storage of combustible material is prohibited.
4. The exclusive property of a unit owner shall not be used or altered in any manner that would affect an increase in the expense of the operation of the condominium, nor shall any structural alterations of any nature be made without the express approval of the Association. All exterior protective curtains, blinds, awnings, etc., which an owner wishes to install to protect the porches or balconies from the sun, win, rain or other elements, shall first be approved by the Association before any such installation by the owner. An owner may install an approved screen and/or storm door at the entrance of the condominium unit upon obtaining approval by the Association. An owner shall not paint or otherwise decorate or change the appearance of any portion of the exterior of the unit or building except as herein provided. All installations of individually owned appliances and any additions to the exterior of the main building shall also first require approval by the Association.
5. Each owner shall be liable for any and all damages to exclusive and/or common property which shall be caused by said owner, his lessees, guests or invitees, and to the extent that such damages are not covered by insurance proceeds, such owner shall be assessed by the Association for the costs of repairs, and the same shall be a lien against the unit of such owner and may be enforced, as provided in the Declaration, the By-Laws, or the Condominium Act. Each owner shall promptly pay when due all repair bills and/or utility bills, which are separate liens or charges against his unit.
6. Common walks and/or other Common Areas shall not be obstructed, littered, defaced or misused in any manner. Exterior surfaces of exclusive property shall not be decorated in any manner without the consent of the Association. No signs may be exposed except those which have been approved in writing by the Association. The terraces, walkways and exterior stairways shall not be used for hanging garments or other objects or for cleaning of rugs or other household items. Disposition of garbage shall be only by the use of garbage disposal units or approved receptacles in locations designated by the Association. All receptacles shall be covered and constructed of material approved by the Association.

7. Pets shall be under the control of their owner at all times. The Association shall have the right to determine that a particular pet constitutes a nuisance and may order the unit owner to remove the pet from the premises. In the event that an owner does keep a pet in contravention of the provisions of this regulation, then the Association shall have the right to apply to a court of competent jurisdiction for an injunction to require the owner to remove the same. In the event the Association prevails in its suit for an injunction, the defending unit owner shall be required to pay the Association's costs, including reasonable attorney fees.

NOTE: Regulations #8 and #9 were amended on 10/12/2005 and originally recorded with the Belknap County Registry of Deeds on 10/24/2005. An amended version, showing the corrected date of the special meeting was recorded on 11/04/2005, Book 2239, Page 664. AMENDED VERSION FOLLOWS ORIGINAL TEXT.

Original text:

8. Each unit owner shall permit reasonable access to his exclusive property by the Association or the agents or employees of the Association for the purpose of maintenance, inspection, repair, replacement or improvements in said exclusive property or the common property, or as may be required in emergency situations during his absence, each owner shall leave a key with an agent, employee of the Association or with some other person residing on the premises after notifying the Association of its location.
9. Each unit owner shall be responsible for shutting off water and winterizing the unit if it is going to be vacant for an extended period of time.

Amended versions of Regulations #8 and #9 dated 10/12/2005 and recorded on 10/24/2005:

8. Each unit owner shall permit reasonable access to his Unit by the Association, its agents or employees for the purpose of maintenance, inspection, repair and replacement or improvements in said unit or the common property, or as may be required in emergency situations. Owners shall provide the Directors a duplicate key for emergency access to their units during periods of absence. Access is required for investigating or stopping an apparent serious condition such as smoke, fire, water leakage, or gas escape, and for maintenance procedures approved by the Directors.
9. Each Unit owner shall maintain heat in his unit sufficient to prevent freezing of any pipes, toilets or other appliances. Owners/lessees shall close the main water shutoff valve in their unit when leaving the unit unoccupied for three (3) days or more and shall provide for temperature monitoring and emergency problem notification.
10. The Common Area shall not be used in a manner, which is inconsistent with the residential character of the condominium. No one shall obstruct, commit any waste in or otherwise cause any damage beyond reasonable wear and tear to the Common Area, and anyone causing such damage shall pay the expenses incurred by the Association in repairing the same; and nothing shall be stored in the Common Area without the prior written consent of the Association; nothing shall be altered,

constructed in or removed from the Common Area without the prior written consent of the Association.

11. No motor vehicles other than of a private passenger type and no boat, boat trailer, minibike, motorcycle, snowmobile, truck, mobile home, camping trailer, utility trailer, or similar terrain vehicle shall be used or kept anywhere on the premises of the condominium except in the garage or in such places as may be designated by the Association, provided that space is available. Unregistered motor vehicles shall not be permitted in any instance.
12. Unit owners desiring to lease units must submit a copy of the proposed lease to the Board of Directors prior to executing said lease. (See Article 12-100A in the By-laws for additional information.)
13. The Association shall assign one or more parking space(s) for each unit owner within the parking area shown on the site plan of the Condominium.
14. Reasonable regulations concerning the use of the units, the common elements and the Common Areas may be made and amended from time to time by the Association; provided, however, that all such regulations and amendments thereto shall be approved by a vote of two-thirds or more of the total voting power of all the unit owners before becoming effective. Copies of such regulations and amendments thereto shall be furnished by the Association to all unit owners and residents of the condominium upon request.

Amended version with the following addition dated 7/16/2016 and recorded on 7/25/2016:

15. When a home is listed for sale, only one realtor sign is permitted in front of the unit. The placement should be close to the home or garage and not near the street in front of the unit. The Association will place a "Home For Sale" sign at the entrance to the development.

SECTION 6

CORRECTED NUMBERING OF PRIOR AMENDMENTS

NOTE: In September 2006 the Mallard Cove Board of Directors learned that two amendments, dated November 1987 and December 1988, were made to the Declaration of Condominium prior to the formation of the Condominium Association in 1994. This led to a more thorough research of subsequent amendment filings for the Declaration, By-Laws and Residency Regulations. This document is to clarify prior filings.

	DATED	RECORDED	BOOK	PAGE
DECLARATION OF CONDOMINIUM	04/07/87	10/16/87	1025	413
1 ST Amendment	11/23/87	12/02/87	1032	265
2 nd Amendment	12/30/88	01/10/89	1083	626
3 rd Amendment (a)	08/31/02	09/16/02	1790	436
4 th Amendment (b)	11/30/05	12/28/05	2257	509
 BY-LAWS	 04/07/87	 10/16/87	 1025	 447
1 st Amendment	07/29/01	08/27/01	1677	799
2 nd Amendment (c)	11/30/05	12/28/05	2257	511
 RESIDENCY REGULATIONS	 04/07/87	 10/16/87	 1025	 458
1 ST Amendment	10/12/05	11/04/05	2239	664

NOTES:

- (a) Was filed as 2nd Amendment to the By-Laws – should have been 3rd Amendment to Declaration.
- (b) Was filed as 1st Amendment to Declaration – should have been 4th Amendment to Declaration.
- (c) Was filed as 3rd Amendment to By-Laws – should have been 2nd Amendment to By-Laws.

This corrected information was filed with the Belknap County Registry of Deeds on 9/25/2006, and recorded in Book 2340, page 728.

LIST OF AMENDMENTS FILED FROM 1987 THROUGH 8/2005

Full text of these amendments are included in this notebook. See . . .
Section 1 – Declaration of Condominium
Section 4 – By-Laws
Section 5 – Residency Regulations.

AMENDMENTS TO THE DECLARATION OF CONDOMINIUM

1st AMENDMENT recorded 12/02/87, Book 1021, Page 266

- *Article 19* - Provides for conversion of Convertible Land and construction of additional units.

2nd AMENDMENT recorded 1/10/89, Book 1083, Page 627

- *Article 19* - Provides for conversion of Convertible Land and construction of additional units.

3rd AMENDMENT recorded 9/16/2002, Book 1790, Page 437

- *Article 2-402* Description of Common Area deleted and replaced with revised wording.
- *Article 5-100* Owners obligation to repair was deleted and replaced with revised wording; 5-100(a) Shrubbery and other plantings was added. (NOTE: Further amended in 2013)

4th AMENDMENT recorded 12/28/2005, Book 2257, Page 5

- *Article 3* Insurance and Voting in the Event of Damage or Destruction – Article 3-204 amended so that individual homeowners will assume responsibility for the master insurance policy deductible, will name the Association as an additional insured on his insurance policy and provide Association proof of insurance. (NOTE: Further amended in 2007)

AMENDMENTS TO THE BY-LAWS

1st AMENDMENT recorded 8/27/2001, Book 1677, Page 799

- *Article 6* Finance and Assessments - New paragraphs 6-500 Initial Assessment, 6-600 Operating Reserves; 6-700 Special Assessments, 6-800 Maintenance (a) by the Board and (b) by Owners.
- *Article 7* Violations – Renamed Compliance and Default; amended and added (a) Legal Proceedings, (b) Additional Liability, (c) Costs of Attorneys' Fees, (d) No

Waiver of Rights, (e) Billing Fees and Interest, (f) Abatement and Enjoinment of Violations by Owners.

- *Article 12* Resale by Purchaser – Added 12-100A Leases; and 12-300 Owners' Failure to Comply.
- *Article 2* Association Members: Meetings – Amended 2-100 Members and Voting Rights.
- *Article 3* Board of Directors – Amended 3-100 concerning number of members and length of term.

2nd AMENDMENT recorded 12/28/2005, Book 2257, Page 511

- *Article 6-500 Initial Assessment* – The dollar amount was changed from \$500 to \$1,000 for the initial assessment to be collected from new home buyer at time of closing. (NOTE: Further amended in 2013.)

* * * * *

AMENDMENTS TO THE RESIDENCY REGULATIONS

1st AMENDMENT recorded 11/04/2005, Book 2239, Page 664

- Rule 8 deleted and replaced - Concerns owners' permitting reasonable access to Units by the Association; and requirement to provide duplicate key.
- Rule 9 deleted and replaced – Concerns maintaining sufficient heat in unit; shutting off water in unit; and providing for temperature monitoring and emergency problem notification.

2nd AMENDMENT recorded 7/25/2016, Book 3047, Page 975

- Rule 15 added – Concerns approved location for placement of realtor signs when homes are listed for sale.

SECTION 7

LIST OF AMENDMENTS FILED AFTER 12/31/2005 AND RECORDED WITH THE BELKNAP COUNTY REGISTRY OF DEEDS

AMENDMENTS TO THE DECLARATION OF CONDOMINIUM

5th AMENDMENT recorded 8/03/2007, Book 2429, Page 706

- *Article 3-204* removes the requirement to name Mallard Cove as an additional insured on homeowners' policies; eliminates the requirement for homeowners to provide proof of insurance; assures that the Association receives the deductible before repairs are begun after a loss has occurred.

6th AMENDMENT recorded 9/12/2013, Book 2875, Page 367.

- *Article 5-100 (a)* transfers the responsibility to the Association to pay for an annual weeding and mulching of the Limited Common Areas immediately around each unit, as needed.

7th AMENDMENT recorded 7/31/2017, Book 3119, Page 117.

- *Article 2-701* sets further lease requirements and establishes a minimum time period for renting/leasing a unit to six months

* * * * *

AMENDMENTS TO THE ARTICLES OF AGREEMENT

1st AMENDMENT recorded 7/31/2017, Book 3119, 111.

- *Article 2-103* eliminates "officers" from the restriction to receive compensation

* * * * *

AMENDMENTS TO THE BY-LAWS

3rd AMENDMENT recorded 8/03/2007, Book 2429, Page 704

- *Article 6-200* reflects change in the Association's fiscal year end from May 31 by removing "for each fiscal year ending May 31" from the Article.

4th AMENDMENT recorded 8/20/2010, Book 2657, Page 417.

- *Article 5-300 and Article 5-600 added the positions and primary responsibilities of a Vice President and a Maintenance Director to Article 5, Officers of the Association. These additions necessitated the renumbering of other items in this Article.*

5th AMENDMENT recorded 9/12/2013, Book 2875, Page 365.

- *Article 6-500 clarifies payment of the initial assessment (1) if a current homeowner in good standing purchases another unit in Mallard Cove and sells his/her unit or (2) if a second unit is purchased without the sale of the currently owned unit.*

6th AMENDMENT recorded 7/31/2017, Book 3119, Page 113.

- *Article 5-600 changes the title of Maintenance Director to V.P. Maintenance*

7th AMENDMENT recorded 7/31/2017, Book 3119, Page 117.

- *Article 5-800 waives 2016 State law regarding non-payment of compensation to officers.*

8th AMENDMENT recorded 7/31/2017, Book 3119, Page 119..

- *Article 6-200 aligns the budget approval process as now defined by State law (RSA 356) passed in 2016.*

9th AMENDMENT recorded 7/31/2017, Book 3119, Page 121.

- *Article 6-500 increases the initial assessment from \$1,000 to \$1,500.*

10th AMENDMENT recorded XXXXXX, Book XXXX, Page XXXX

- *Article 6-500 maintains the initial assessment at \$1,500 at closing, but includes information relative to ownership of units and how it relates to the initial assessment being applied.*

* * * * *

AMENDMENTS TO THE RESIDENCY REGULATIONS

2nd AMENDMENT recorded 7/25/2016, Book 3047, Page 975

- *Rule 15 was added to formalize the approved placement of realtor signs when units are listed for sale. The topic was discussed at the 2007 Annual Meeting, but no vote was taken at that time.*

SECTION 8

TITLE XXXI TRADE AND COMMERCE CHAPTER 356-B CONDOMINIUM ACT

NOTE: In August 2016 the State of New Hampshire revised many of its laws pertaining to the operation of condominium associations. This **Section 8** is updated to reflect the revisions.

Complete Chapter 356-B information relating to condominium associations is available on-line at:

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XXXI-356-B.htm>

The following are specific areas that may be referenced in our condominium documents.

I. General Principles

356-B:6 Eminent Domain.

I. If any portion of the common area is taken by eminent domain, the award therefor shall be allocated to the unit owners in proportion to their respective undivided interests in the common area; provided, however, that the portion of the award attributable to the taking of any permanently assigned limited common area shall be allocated by the decree to the unit owner of the unit to which that limited common area was so assigned at the time of the taking. If that limited common area was permanently assigned to more than one unit at the time of the taking, then the portion of the award attributable to the taking thereof shall be allocated in equal shares to the unit owners of the units to which it was so assigned or in such other shares as the condominium instruments may specify for this express purpose. A permanently assigned limited common area is a limited common area which cannot be reassigned or which can be reassigned only with the consent of the unit owner or owners of the unit or units to which it is assigned. In the event of a taking or acquisition of a part or all of the common areas by a condemning authority, the statutory notices of hearing shall be served on the unit owners' association acting on behalf of all of the unit owners at least 30 days prior to such hearing, and the award or proceeds of settlement shall be payable to the unit owners' association for the use and benefit of the unit owners and their mortgagees as their interest may appear in accordance with this section. The unit owners' association shall represent the unit owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authorities for acquisition of the common areas or any part thereof and the unit owners' association shall act as attorney-in-fact for each unit owner for the purposes of this section.

II. If one or more units are taken by eminent domain, the undivided interest in the common area appertaining to any such unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common area. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just

compensation to the unit owner of any unit taken for his undivided interest in the common area as well as for his unit.

III. If portions of any unit are taken by eminent domain, the court shall determine the fair market value of the portions of such unit not taken and the undivided interest in the common area appertaining to any such units shall be reduced, in the case of each such unit, in proportion to the diminution in the fair market value of such unit resulting from the taking. The portions of undivided interest in the common area thereby divested from the unit owners of any such units shall be reallocated among those units and the other units in the condominium in proportion to their respective undivided interests in the common area, with any units partially taken participating in such reallocation on the basis of their undivided interests as reduced in accordance with the preceding sentence. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of his undivided interest in the common area divested from him by operation of the first sentence of this paragraph and not revested in him by operation of the following sentence, as well as for that portion of his unit taken by eminent domain.

IV. If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the condominium instruments, then the entire undivided interest in the common area appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common area, and the remaining portion of that unit shall thenceforth be common area. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of such unit for his entire undivided interest in the common area and for his entire unit.

V. Votes in the unit owners' association, rights to future common profits, and liabilities for future common expenses not specially assessed, appertaining to any unit or units taken or partially taken by eminent domain, shall thenceforth appertain to the remaining units, being allocated to them in proportion to their relative voting strength in the unit owners' association, with any units partially taken participating in such reallocation as though their voting strength in the unit owners' association has been reduced in proportion to their reduction in their undivided interests in the common area, and the decree of the court shall provide accordingly.

VI. The decree of the court shall require recordation thereof in the registry of deeds of the county in which the condominium is located.

Source. 1977, 468:1. 1989, 149:1, eff. July 16, 1989.

356-B:6-a Applicability of Chapter. –

I. In the event of a conflict between the declaration or bylaws, the provisions of RSA 356-B shall control.

II. A unit owners association may amend or revise the condominium documents to comply with the requirements of RSA 356-B without the need to obtain mortgagee approval if the changes do not affect the mortgagee's equity or security interest in the property.

Source. 2016, 311:4, eff. Aug. 1, 2016.

II. Condominium Instruments

356-B:16 Contents of Declaration. –

- I. The declaration for every condominium shall contain the following:
 - (a) The name of the condominium, which name shall include the word "condominium" or be followed by the words "a condominium";
 - (b) The name of the town or city and county in which the condominium is located;
 - (c) A legal description by metes and bounds of the land submitted to this chapter;
 - (d) A description or delineation of the boundaries of the units, including the horizontal boundaries, if any, as well as the vertical boundaries;
 - (e) A description or delineation of the limited common areas, if any, showing or designating the unit or units to which each is assigned;
 - (f) A description or delineation of all common areas not within the boundaries of any convertible lands which may subsequently be assigned as limited common areas, together with a statement that they may be so assigned and a description of the method whereby any such assignments shall be made in accordance with RSA 356-B:19;
 - (g) The allocation to each unit of an undivided interest in the common areas in accordance with RSA 356-B:17;
 - (h) A statement of the purposes for which the condominium and each of the units are intended and restricted as to use;
 - (i) A description of the manner of determining appropriate action following damage to any portion of the condominium by fire or other casualty; and
 - (j) Such other matters as the declarant deems appropriate.
- II. If the condominium contains any convertible land, the declaration shall also contain the following:
 - (a) A legal description by metes and bounds of each convertible land within the condominium;
 - (b) A statement of the maximum number of units that may be created within each such convertible land;
 - (c) A statement, with respect to each such convertible land, as to whether or not any portion of such convertible land will not be restricted to residential use, and, if not, the nature of the permitted uses, and the maximum percentage of the aggregate land and aggregate floor area of all units that may be created which will not be restricted exclusively to residential use;
 - (d) A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the submitted land in terms of quality of construction, the principal materials to be used, and architectural style;
 - (e) A description of all other improvements that may be made on each convertible land within the condominium;
 - (f) A statement that any units created within each convertible land will be substantially identical to the units on other portions of the submitted land, or a statement describing in detail any differences in design, layout, size, quality or other significant characteristics of the units that may be created therein; and
 - (g) A description of the declarant's reserved right, if any, to create limited common areas within any convertible land, and/or to designate common areas therein which may subsequently be assigned as limited common areas in terms of the types, sizes, and maximum number of such areas within each such convertible land.

Provided, that site plans and floor plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs II(a), (d), (e), (f) and (g), and that subparagraph II(c) need not be complied with if none of the units on other portions of the submitted land are restricted exclusively to residential use.

III. If the condominium is an expandable condominium, the declaration shall also contain the following:

- (a) The explicit reservation of an option to expand the condominium;
- (b) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be evidenced; or a statement that there are no such limitations;
- (c) A time limit, not exceeding 7 years from the recording of the declaration, upon which the option to expand the condominium shall expire, provided, however, that the time limit contained in the declaration may be extended by not more than 7 years by an amendment to the declaration adopted pursuant to RSA 356-B:54, V, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;
- (d) A legal description by metes and bounds of all land that may be added to the condominium, henceforth referred to as "additional land";
- (e) A statement as to whether, if any of the additional land is added to the condominium, all of it or any particular portion of it must be added, and, if not, a statement of any limitations as to what portions may be added or a statement that there are no such limitations;
- (f) A statement as to whether portions of the additional land may be added to the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be added to the condominium;
- (g) A statement of any limitations as to the locations of any improvements that may be made on any portions of the additional land added to the condominium, or a statement that no assurances are made in that regard;
- (h) A statement of the maximum number of units that may be created on the additional land. If portions of the additional land may be added to the condominium and the boundaries of those portions are fixed in accordance with subparagraph III(f), the declaration shall also state the maximum number of units that may be created on each such portion added to the condominium. If portions of the additional land may be added to the condominium and the boundaries of those portions are not fixed in accordance with subparagraph III(f), then the declaration shall also state the maximum number of units per acre that may be created on any such portion added to the condominium;
- (i) A statement, with respect to the additional land and to any portion or portions thereof that may be added to the condominium, as to whether or not any portion of such expandable land will not be restricted to residential use, and, if not, the nature of the permitted uses and the maximum percentage of the aggregate land and aggregate floor area of all units that may be created thereon which will not be restricted exclusively to residential use;
- (j) A statement of the extent to which any structures created on any portion of the additional land added to the condominium will be compatible with structures on the submitted land in terms of quality of construction, the principal materials to be used, and architectural style, or a statement that no assurances are made in those regards;
- (k) A description of all other improvements that will be made on any portion of the additional land added to the condominium or a statement of any limitations as to what other improvements may be made thereon, or a statement that no assurances are made

in that regard;

(l) A statement that any units created on any portion of the additional land added to the condominium will be substantially identical to the units on the submitted land, or a statement of any limitations as to what differences in design, layout, size, quality or other significant characteristics of the units may be created thereon, or a statement that no assurances are made in that regard; and

(m) A description of the declarant's reserved right, if any, to create limited common areas within any portion of the additional land added to the condominium, and/or to designate common areas therein which may subsequently be assigned as limited common areas in terms of types, sizes, and maximum number of such areas within each such portion, or a statement that no assurances are made in those regards.

Provided, that site plans and floor plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs III(d), (e), (f), (g), (j), (k), (l) and (m), and that subparagraph III(i) need not be complied with if none of the units on the submitted land is restricted exclusively to residential use.

IV. If the condominium is a contractible condominium, the declaration shall also contain the following:

(a) The explicit reservation of an option to contract the condominium;

(b) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be evidenced; or a statement that there are no such limitations;

(c) A time limit, not exceeding 7 years from the recording of the declaration, upon which the option to contract the condominium shall expire, provided, however, that the time limit contained in the declaration may be extended by not more than 7 years by an amendment to the declaration adopted pursuant to RSA 356-B:54, V, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

(d) A legal description by metes and bounds of all land that may be withdrawn from the condominium, henceforth referred to as "withdrawable land";

(e) A statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be withdrawn from the condominium; and

(f) A legal description by metes and bounds of all of the submitted land to which the option to contract the condominium does not extend. Provided, that site plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs IV(d), (e) and (f), and that subparagraph IV(f) shall not be construed in derogation of any right the declarant may have to terminate the condominium in accordance with RSA 356-B:33.

V. If the condominium is a leasehold condominium, then with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the condominium, the declaration shall set forth the county wherein the same are recorded and the deed book and page number where the first page of each such lease is recorded; and the declaration shall also contain the following:

(a) The date upon which each such lease is due to expire;

(b) A statement as to whether any land and/or improvements will be owned by the unit owners in fee simple, and, if so, either (a) a description of the same, including without limitation a legal description by metes and bounds of any such land, or (b) a statement of any rights the unit owners shall have to remove such improvements within

a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights; and

(c) A statement of the rights the unit owners shall have to redeem the reversion or any of the reversions, or a statement that they shall have no such rights. Provided, that after the recording of the declaration, no lessor who executed the same, and no successor in interest to such lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of his share of the rent to the person or persons designated in the declaration for the receipt of such rent and who otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. Acquisition or reacquisition of such a leasehold interest by the owner of the reversion or remainder shall not cause a merger of the leasehold and fee simple interests unless all leasehold interests in the condominium are thus acquired or reacquired.

VI. Wherever this section requires a legal description by metes and bounds of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, such requirement shall be deemed satisfied by any legally sufficient description and shall be deemed to require a legally sufficient description of any easements that are submitted to this chapter or that may be added to or withdrawn from the condominium, as the case may be. In the case of each such easement, the declaration shall contain the following:

- (a) A description of the permitted use or uses;
- (b) If less than all of those entitled to the use of all of the units may utilize such easement, a statement of the relevant restrictions and limitations on utilization; and
- (c) If any persons other than those entitled to the use of the units may utilize such easement, a statement of the rights of others to utilization of the same.

VII. Wherever this section requires a legal description by metes and bounds of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, an added requirement shall be a separate legally sufficient description of all lands in which the unit owners shall or may be tenants in common or joint tenants with any other persons, and a separate legally sufficient description of all lands in which the unit owners shall or may be life tenants. No units shall be situated on any such lands, however, and the declaration shall describe the nature of the unit owner's estate therein. No such lands shall be shown on the same site plans showing other portions of the condominium, but shall be shown instead on separate site plans.

Source. 1977, 468:1. 1991, 110:1, 2, eff. May 13, 1991.

356-B:18 Reallocation of Interests in the Common Areas.

I. If a condominium contains any convertible land or is an expandable condominium, then the declaration shall not allocate undivided interests in the common areas on the basis of value unless the declaration:

- (a) Prohibits the creation of any units not substantially identical to the units depicted on the site plans and floor plans recorded pursuant to RSA 356-B:20, I and II; or
- (b) Prohibits the creation of any units not described pursuant to RSA 356-B:16, II(f) (in the case of convertible lands) and RSA 356-B:16, III(I) (in the case of additional land), and contains from the outset a statement of the value that shall be assigned to every such unit that may be created.

II. Interests in the common areas shall not be allocated to any units to be created within any convertible land or within any additional land until site plans and floor plans depicting the same are recorded pursuant to RSA 356-B:20, III. But simultaneously with

the recording of such site plans and floor plans the declarant shall execute and record an amendment to the declaration reallocating undivided interests in the common areas so that the units depicted on such site plans and floor plans shall be allocated undivided interests in the common areas on the same basis as the units depicted on the site plans and floor plans recorded simultaneously with the declaration pursuant to RSA 356-B:20, I and II.

III. If all of a convertible space is converted into common areas, including without limitation limited common areas, then the undivided interest in the common areas appertaining to such space shall thenceforth appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common areas. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced thereby.

IV. In the case of a leasehold condominium, if the expiration or termination of any lease causes a contraction of the condominium which reduces the number of units, then the undivided interest in the common areas appertaining to any units thereby withdrawn from the condominium shall thenceforth appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common areas. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced thereby.

Source. 1977, 468:1, eff. Sept. 10, 1977.

III. Unit Owners' Associations

356-B:35 Contents of the Bylaws. –

I. There shall be recorded simultaneously with the declaration a set of bylaws providing for the self-government of the condominium by an association of all the unit owners. The unit owners' association may be incorporated.

II. The bylaws shall provide the means by which the association shall elect a board of directors. The bylaws shall specify the powers and responsibilities of the same and the number and terms of its members. The bylaws may delegate to such board, among other things, any of the powers and responsibilities assigned by this chapter to the unit owners' association. The bylaws shall also specify which, if any, of its powers and responsibilities the unit owners' association or its board may delegate to a managing agent. The board of directors shall have a fiduciary relationship to members of the unit owners' association.

III. The bylaws shall provide for election by the board of directors or, if the declaration requires, by the association members, of a president, treasurer, secretary, and any other officers of the association the bylaws specify.

IV. The bylaws shall specify the qualifications, powers and duties, terms of office, and manner of electing and removing board members and officers and filling vacancies.

IV-a. The bylaws may require an employee of a managing agent or condominium association to complete a background check prior to employment. The cost of the background check shall be borne by the managing agent or the association.

V. The bylaws shall specify the officers who may prepare, execute, certify, and record amendments to the declaration on behalf of the association.

VI. The bylaws shall specify a method for the association members to amend the bylaws.

VII. The bylaws shall provide that the unit owners' association shall act on behalf of each unit owner in condemnation proceedings against the common areas of the condominium.

VIII. The bylaws shall contain any provision necessary to satisfy requirements of this chapter or the declaration concerning meetings, voting, quorums, and other activities of the association.

IX. The bylaws shall provide for any matter required by laws of this state other than this chapter to appear in the bylaws of organizations of the same type as the association.

X. Subject to the declaration and this chapter, the bylaws may provide for any other necessary or appropriate matters, including matters that may be adopted as rules.

XI. In any case where an amendment to the declaration is required by RSA 356-B:18, II, III, or IV, the person or persons required to execute the same shall also prepare and execute, and record simultaneously with such amendment, an amendment to the bylaws. The amendment to the bylaws shall allocate votes in the unit owners' association to new units on the same basis as was used for the allocation of such votes to the units depicted on site plans and floor plans recorded pursuant to RSA 356-B:20, I and II, or shall abolish the votes appertaining to former units, as the case may be. The amendment to the bylaws shall also reallocate rights to future common profits, and liabilities for future common expenses not specially assessed, in proportion to relative voting strengths as reflected by the said amendment.

Source. 1977, 468:1. 1989, 149:2, eff. July 16, 1989. 2016, 311:1, eff. Aug. 1, 2016.

356-B:36 Control by the Declarant. –

I. The condominium instruments may authorize the declarant, or a managing agent or some other person or persons selected or to be selected by the declarant, to appoint and remove some or all of the officers of the unit owners' association or its board of directors, or both, or to exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter to the unit owners' association, the officers, or the board of directors. But no amendment to the condominium instruments shall increase the scope of such authorization if there is any unit owner other than the declarant, and no such authorization shall be valid after the time limit set by the condominium instruments or after units to which 3/4 of the undivided interests in the common areas appertain have been conveyed, whichever occurs first. The time limit initially set by the condominium instruments shall not exceed 5 years in the case of an expandable condominium, 3 years in the case of a condominium containing any convertible land, or 2 years in the case of any other condominium.

II. If entered into during the period of control contemplated by paragraph I, no management contract, lease of recreational areas or facilities, or any other contract or lease executed by or on behalf of the unit owners' association, its board of directors, or the unit owners as a group, shall be binding after such period of control unless then renewed or ratified with the consent of unit owners of units to which a majority of the votes in the unit owners' association appertain.

III. If the unit owners' association is not in existence or does not have officers at the

time of the creation of the condominium, the declarant shall, until there is such an association with such officers, have the power and the responsibility to act in all instances where this chapter requires action by the unit owners' association, its board of directors, or any officer or officers.

IV. This section shall be strictly construed to protect the rights of the unit owners.

Source. 1977, 468:1, eff. Sept. 10, 1977.

356-B:37 Meetings. –

I. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer who shall, at least 21 days in advance of any annual or regularly scheduled meeting, and at least 7 days in advance of any other meeting, provide to each unit owner notice of the time, place, and purpose or purposes of such meeting in conformity with RSA 356-B:37-a. The minimum time to give notice may be reduced or waived for a meeting called to deal with an emergency. Purposes of the meeting shall include any budget changes or proposal to remove an officer or member of the board of directors. The secretary or other duly authorized officer of the unit owners' association, who shall also be a member of the board of directors of the unit owners' association, shall prepare an affidavit which shall be accompanied by a list of the addresses of all unit owners currently on file with the association and shall attest that notice of the association meeting was provided to all unit owners on that list in a manner conforming to RSA 356-B:37-a. A copy of the affidavit and unit owners list shall be available at the noticed meeting for inspection by all owners then in attendance and shall be retained with the minutes of that meeting. The affidavit required in this section shall be available for inspection by unit owners for at least 3 years after the date of the subject meeting.

II. An association shall hold a special meeting of unit owners to address any matter affecting the unit owners or the association if its president, a majority of the board of directors, or unit owners having at least 33 percent, or any lower percentage specified in the bylaws, of the votes in the association request that the secretary call the meeting. If the association does not notify unit owners of a special meeting within 30 days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly notify all the unit owners of an informational meeting, the purpose of which shall be to present the issue to fellow residents and unit owners. Only matters described in the meeting notice required by RSA 356-B:37-a may be considered at a special meeting.

III. Except as otherwise provided in the bylaws, meetings of the association shall be conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised.

IV. Unit owners shall be given a reasonable opportunity at any meeting to comment regarding any matter affecting the association.

V. The declaration or bylaws may allow for meetings of unit owners to be conducted by telephonic, video, or other conferencing process, as provided in RSA 356-B:37-b.

VI. The board of directors shall make copies of the minutes of all meetings available to the unit owners within 60 days of the meeting or 15 days of the date such minutes are approved by the board, whichever occurs first. The association may opt to provide the minutes electronically or publish them on the association website, in which case the owners shall be informed of the web address.

Source. 1977, 468:1. 1990, 80:1. 1993, 186:1, eff. June 9, 1993. 2009, 184:1, eff. Jan. 1, 2010. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-a Notice to Unit Owners. – An association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit owner designates. If the unit owner does not designate an address, the association shall deliver notices by hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-b Meetings by Telephonic, Video, or Other Conferencing Process. –

When the declaration or bylaws provides, the association, committees thereof, and the board of directors may meet by telephonic, video, or other conferencing process, provided that the requirements of RSA 356-B:37-c are also met.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-c Meetings of the Board of Directors and Committees of the Association.

– The following requirements apply to meetings of the board of directors and committees of the association authorized to act for the association:

I. For purposes of this section, a gathering of board members at which the board members do not conduct association business is not a meeting of the board of directors. The board of directors and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this section.

II. Not less than once each quarter, and at such additional times as may be specified in the condominium bylaws, the board of directors shall, subject to the provisions of RSA 356-B:37-d, hold an open regular meeting during which unit owners shall be afforded a reasonable opportunity to comment on any matter affecting the association. At its discretion, the board of directors may meet in a meeting not open to unit owners provided the meeting is recorded and the recording is made available to unit owners for up to 30 days upon request.

III. Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the bylaws shall give notice of each meeting of the board of directors to each board member and to the unit owners. The notice shall be given at least 10 days before the meeting and shall state the time, date, place, and agenda of the meeting.

IV. If any materials are distributed to the board of directors before the meeting, the board of directors at the same time shall make copies of those materials reasonably available to unit owners, except that the board of directors need not make available copies of unapproved minutes or matters that are to be considered in executive session.

V. In the case of self-managed community associations, meetings of the board of directors or committees expressly for purposes of implementation of decisions made in open meetings shall be exempt from the requirements of RSA 356-B:37, 356-B:37-a, and this section.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-d Executive Session. – The board of directors and association committees may hold an executive session only during a regular or special meeting of the board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to:

- I. Consult with the association's attorney.
- II. Discuss existing or potential litigation or mediation, arbitration, or administrative proceedings.
- III. Discuss labor or personnel matters.
- IV. Discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage or prevent public knowledge of the matter to be discussed if the board of directors or a committee determines that public knowledge would violate the privacy of any person.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:38 Quorums. –

I. Unless the condominium instruments otherwise provide, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than 33 1/3 percent of the votes are present at the beginning of such meeting. The bylaws may provide for a smaller percentage, not less than 25 percent, or for a larger percentage for associations having fewer than 25 units; provided, however, this paragraph shall not apply if the condominium is comprised of time sharing interests.

II. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the board of directors if persons entitled to cast more than 1/2 of the votes in that body are present at the beginning of such meeting.

III. If a quorum is not met for an annual meeting, the board shall reschedule the meeting within 60 days and provide proper notice and proxies.

Source. 1977, 468:1, eff. Sept. 10, 1977. 2016, 311:2, eff. Aug. 1, 2016.

356-B:39 Voting. –

I. The bylaws may allocate to each unit depicted on site plans and floor plans that comply with RSA 356-B:20, I and II, a number of votes in the unit owners' association proportionate to the undivided interest in the common areas appertaining to each such unit.

II. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so

depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

III. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. But if more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with agreement of a majority in interest of the owners unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this paragraph to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a unit owner.

IV. (a) The votes appertaining to any unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such persons. A person may not cast undirected proxies representing more than 10 percent of the votes in the association. The proxy or proxies shall list the name of the person who is to vote. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated or if it purports to be revocable without the required notice. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. The board of directors shall deliver to the unit owners, together with their notice of meeting and agenda, proxy forms bearing a control number which the board of directors shall correlate to the list of all unit owners then entitled to vote. At the noticed meeting, the board of directors shall recover all proxies and compare them to the control list maintained for that purpose. Any proxies which are on a form other than that provided by the board of directors or which do not correlate with the control list maintained by the board of directors shall be disregarded for purposes of determining whether a quorum was present at the meeting and for purposes of casting any vote at that meeting; provided, however, this paragraph shall not apply if the condominium is comprised of time sharing interests.

(b) The board of directors shall retain all proxies delivered to the board of directors and all independent written confirmation of any such proxies for inspection by the unit owners for a period of not less than 3 years from the date of the unit owners' association meeting.

V. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

VI. If more than 50 percent of the votes are acquired by a single person after developer control is terminated, a 2/3 majority shall be required to change bylaws, budgets, and any contracted property management.

Source. 1977, 468:1. 1993, 186:2, eff. June 9, 1993. 2016, 311:2, eff. Aug. 1, 2016.

356-B:39-a Voting Without a Meeting. – Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. In that event, the following requirements apply:

I. The association shall notify the unit owners, in the manner prescribed by RSA 356-B:37-a, that the vote will be taken by ballot and deliver a paper or electronic ballot to every unit owner entitled to vote on the matter.

II. The ballot shall:

(a) Set forth each proposed action and provide an opportunity to vote for or against the action.

(b) Indicate the number of responses needed to meet the quorum requirements.

(c) State the percent of votes necessary to approve each matter other than election of directors.

(d) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 10 days after the date the association delivers the ballot.

(e) Describe the time, date, and manner by which unit owners wishing to deliver information to all unit owners regarding the subject of the vote may do so.

III. Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability or attempted revocation by the person that cast that vote.

IV. Approval by ballot pursuant to this section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40 Members of the Board of Directors and Officers. –

I. Except as provided in the declaration, the bylaws, paragraph II, or other provisions of this chapter, the board of directors acts on behalf of the association. In the performance of their duties, officers and members of the board of directors appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee. Officers and members of the board of directors not appointed by the declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized under RSA 292, and are subject to the conflict of interest rules governing directors and officers under RSA 292. The standards of care and loyalty described in this paragraph apply regardless of the form in which the association is organized.

II. The board of directors shall not:

(a) Amend the declaration except as otherwise provided in this chapter.

(b) Amend the bylaws.

(c) Terminate the unit owners' association.

(d) Elect members of the board of directors but may fill vacancies in its membership for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of executive board members.

(e) Determine the qualifications, powers, and duties, or terms of office of members of the board of directors.

II-a. An officer shall not directly receive any salary or compensation from the

association for the performance of duties as an officer or board member and shall not in any other way benefit financially from service to the association.

II-b. If annually approved by a 2/3 majority of the voting interests present at a properly called meeting of the association, the association may waive the requirements of paragraph II-a.

III. The board of directors shall adopt budgets as provided in RSA 356-B:40-c.

IV. Subject to the provisions of paragraph V, the declaration may provide for a period of declarant control of the association, during which a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the board of directors. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board of directors before the period ends. In that event, the declarant may require during the remainder of the period that specified actions of the association or board of directors, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, and except as provided in RSA 356-B:36, a period of declarant control terminates no later than the earliest of:

(a) Sixty days after conveyance of 60 percent of the units that may be created to unit owners other than a declarant;

(b) Two years after all declarants have ceased to offer units for sale in the ordinary course of business;

(c) Two years after any right to add new units was last exercised; or

(d) The date the declarant, after giving notice in a record to unit owners, records an instrument voluntarily surrendering all rights to control activities of the association.

V. Not later than 60 days after conveyance of 1/4 of the units that may be created to unit owners other than a declarant, at least one member and not less than 25 percent of the members of the board of directors shall be elected by unit owners other than the declarant. Not later than 60 days after conveyance of 1/2 of the units that may be created to unit owners other than a declarant, not less than 1/2 of the members of the board of directors shall be elected by unit owners other than the declarant.

VI. Not later than the termination of any period of declarant control, the unit owners shall elect a board of directors with at least 3 members, a majority of whom shall be unit owners. Unless the declaration provides for the election of officers by the unit owners, the board of directors shall elect the officers. The members of the board of directors and officers shall take office upon election or appointment.

VII. If the condominium instruments provide that any officer or officers must be unit owners, then any such officer who disposes of all of his or her units in fee or for a term or terms of more than one year shall be deemed disqualified from continuing in office unless the condominium instruments otherwise provide, or unless the officer acquires or contracts to acquire another unit in the condominium under terms giving the officer a right of occupancy thereto effective on or before the termination of the right of occupancy under such disposition or dispositions.

VIII. If the condominium instruments provide that any officer or officers must be unit owners, then notwithstanding the provisions of RSA 356-B:12, I, the term "unit owner" in such context shall, unless the condominium instruments otherwise provide, be deemed to include, without limitation, any director, officer, partner in, or trustee of any person which is, either alone or in conjunction with another person or persons, a unit owner. Any officer who would not be eligible to serve as such were he or she not director, officer, partner in, or trustee of such a person shall be deemed disqualified from continuing in office if the officer ceases to have any such affiliation with that person, or if that person would itself have been deemed to have disqualified itself from continuing in such office under paragraph I were it a natural person holding such office.

IX. Any officer is a suitable person to receive service of process in any proceeding against the association.

X. For the purpose of receipt of notification by a municipality of a local land use board hearing, the officers shall be responsible for serving as agents of the unit owners' association.

Source. 1977, 468:1. 1986, 33:1, eff. June 28, 1986. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40-a Managing Agent and Contractors; Disclosure of Fees; Qualifications. –

I. If the unit owners' association or the board of directors has delegated certain powers and duties to a managing agent, the managing agent shall disclose any referral fees received from contract work performed on behalf of the association to the board of directors prior to the next regularly scheduled board meeting, unless the terms of any referral fees are disclosed in the managing agent's contract with the unit owners' association, in which case disclosure of fees actually received shall not be required.

II. The managing agent also shall disclose to the board of directors the amount and purpose of any fees, other than maintenance fees, received from a unit owner, unless the terms of any such fees are disclosed in the managing agent's contract with the unit owners' association, in which case disclosure of fees actually received shall not be required.

III. Any contractor licensed by the state of New Hampshire who performs work for a unit owner shall disclose on the bill any referral fee paid by the contractor.

Source. 2011, 96:1, eff. Jan. 1, 2012. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40-b Removal of Officers and Directors. –

I. Notwithstanding any provision of the declaration or bylaws to the contrary, unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, may remove any member of the board of directors and any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, provided that:

(a) A member appointed by the declarant may not be removed by a unit owner vote during the period of declarant control.

(b) The unit owners may not consider whether to remove a member of the board of directors or an officer elected by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting.

II. At any meeting at which a vote to remove a member of the board of directors or an officer is to be taken, the member or officer being considered for removal shall have a reasonable opportunity to speak before the vote.

Source. 2015, 131:1, eff. Jan. 1, 2016. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40-c Adoption of Budgets and Special Assessments. –

I. The board of directors, at least annually, shall adopt a proposed budget for the unit owners' association for consideration by the unit owners. Not later than 30 days after adoption of a proposed budget, the board of directors shall provide to all the unit owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the board shall set a date not less than 10 days or more than 60 days after providing the summary for a meeting of the

unit owners to consider ratification of the budget. Unless at that meeting 2/3 of all unit owners or any larger number specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. If a proposed budget is rejected, the budget last ratified by the unit owners continues until the unit owners ratify a subsequent budget.

II. The board of directors, at any time, may propose a special assessment. Except as otherwise provided in paragraph III, the assessment is effective only if the board of directors follows the procedures for ratification of a budget described in paragraph I and the unit owners do not reject the proposed assessment.

III. If the board of directors determines by a 2/3 vote that a special assessment is necessary to respond to an emergency:

(a) The special assessment becomes effective immediately in accordance with the terms of the vote.

(b) Notice of the special assessment shall be provided promptly to all unit owners.

(c) The board of directors may spend the funds paid on account of the special assessment only for the purposes described in the vote.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:43 Insurance. –

I. The condominium instruments shall require the unit owners' association, or the board of directors or managing agent on behalf of such association, to obtain:

(a) A master casualty policy affording fire and extended coverage in an amount equal to the full replacement value of the structures within the condominium, or of such structures that in whole or in part comprise portions of the common areas;

(b) A master liability policy, in an amount specified by the condominium instruments, covering the unit owners' association, the board of directors, if any, the managing agent, if any, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the condominium, and all unit owners and other persons entitled to occupy any unit or other portion of the condominium; and

(c) Such other policies as may be required by the condominium instruments, including, without limitation, workers' compensation insurance, liability insurance on motor vehicles owned by the association, and specialized policies covering lands or improvements in which the unit owners' association has or shares ownership or other rights.

II. When any policy of insurance has been obtained by or on behalf of the unit owners' association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each unit owner by the officer required to send notices of meetings of the unit owners' association. Such notices shall be sent in accordance with RSA 356-B:37-a.

III. Unless the unit owners vote to terminate the condominium under RSA 356-B:34, the proceeds of the master casualty policy shall be used to repair, replace or restore the structure or common area damaged by casualty.

Source. 1977, 468:1, eff. Sept. 10, 1977. 2016, 311:3, eff. Aug. 1, 2016.

356-B:46 Lien for Assessments. –

I. The unit owners' association shall have a lien on every condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments, if perfected as hereinafter provided. The said lien, once perfected, shall be prior to all other liens and encumbrances except (a) real estate tax liens on that condominium unit, (b) liens and encumbrances recorded prior to the recordation of the declaration, and (c) sums unpaid on any first mortgages or first deeds of trust encumbering that condominium unit and securing institutional lenders. The provisions of this paragraph shall not affect the priority of mechanics' and materialmen's liens.

II. Notwithstanding any other provision of this section, or any other provision of law, all memoranda of liens arising under this section shall be recorded in the registry of deeds in each county in which any part of the condominium is located. Such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

III. The unit owners' association, in order to perfect the lien given by this section, shall file, before the expiration of 6 months from the time such assessment became due and payable in the registry of deeds in the county in which such condominium is situated, a memorandum, verified by the oath of the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, which contains the following:

- (a) A description of the condominium unit in accordance with RSA 356-B:9;
- (b) The name or names of the persons constituting the unit owners of that condominium unit;
- (c) The amount of unpaid assessments currently due or past due together with the date when each fell due; and
- (d) The date of issuance of the memorandum.

It shall be the duty of the register in whose office such memorandum shall be filed as hereinabove provided to record and index the same as provided in paragraph II, in the names of the persons identified therein as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment or decree enforcing such lien.

IV. No suit to enforce any lien perfected under paragraph III shall be brought after 6 years from the time when the memorandum of lien was recorded; provided, however, that the filing of a petition to enforce any such lien in any suit wherein such petition may be properly filed shall be regarded as the institution of a suit under this section; and provided further that nothing herein shall extend the time within which any such lien may be perfected.

V. The judgment or decree in an action brought pursuant to this section shall include, without limitation, reimbursement for costs and attorneys' fees, together with interest at the maximum lawful rate for the sums secured by the lien from the time such sum became due and payable.

VI. When payment or satisfaction is made of a debt secured by the lien perfected by paragraph III, said lien shall be released in the same manner as required by RSA 479:7 for mortgages. For the purposes of this section, the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor and shall discharge said lien.

VII. Nothing in this section shall be construed to prohibit actions at law to recover sums for which paragraph I creates a lien, maintainable pursuant to RSA 356-B:15.

VIII. Any unit owner or purchaser of a condominium unit, having executed a contract

for the disposition of the same, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 business days from the receipt of such request shall extinguish the lien created by paragraph I as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the board of directors, and every unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

IX. Notwithstanding any law, rule, or provision of the condominium declaration, bylaws, or rules to the contrary, the unit owners' association may authorize, pursuant to RSA 356-B, its board of directors to, after 30 days' prior written notice to the unit owner and unit owner's first mortgagee of nonpayment of common assessments, terminate the delinquent unit's common privileges and cease supplying a delinquent unit with any and all services normally supplied or paid for by the unit owners' association. Any terminated services and privileges shall be restored upon payment of all assessments.

X. The unit owners' association may collect an amount of up to 6 months' common expense assessments in advance from unit owners and hold the amount so collected in escrow and, upon default by any unit owner in the payment of common expense assessments, apply the same to cure such default.

Source. 1977, 468:1. 1994, 163:1, eff. July 22, 1994.

356-B:47 Restraints on Alienation. – If the condominium instruments create any rights of first refusal or other restraints on free alienability of the condominium units, such rights and restraints shall be void unless the condominium instruments make provision for promptly furnishing to any unit owner or purchaser requesting the same a recordable statement certifying to any waiver of, or failure or refusal to exercise, such rights and restraints, in all cases where such waiver, failure, or refusal does in fact occur. Failure or refusal to furnish promptly such a statement in such circumstances in accordance with the provisions of the condominium instruments shall make all such rights and restraints inapplicable to any disposition of a condominium unit in contemplation of which such statement was requested. Any such statement shall be binding on the association of unit owners, the board of directors, and every unit owner. Payment of a fee not exceeding \$25 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

Source. 1977, 468:1, eff. Sept. 10, 1977.

IV. Administration and Enforcement

356-B:58 Resale by Purchaser.

I. In the event of any resale of a condominium unit or any interest therein by any person other than the declarant, the prospective unit owner shall have the right to obtain from the owners' association, prior to the contract date of the disposition, the following:

(a) Appropriate statements pursuant to RSA 356-B:46, VIII and, if applicable, RSA 356-B:47;

(b) A statement of any capital expenditures and major maintenance expenditures

anticipated by the unit owners' association within the current or succeeding 2 fiscal years;

(c) A statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the board of directors;

(d) A copy of the income statement and balance sheet of the unit owners' association for the last fiscal year for which such statement is available;

(e) A statement of the status of any pending suits or judgments in which the unit owners' association is a party defendant;

(f) A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association and what additional insurance coverage would normally be secured by each individual unit owner; and

(g) A statement that any improvements or alterations made to the unit, or the limited common areas assigned thereto, by the prior unit owner are not known to be in violation of the condominium instruments.

(h) A copy of the condominium declaration, by-laws, and any formal rules of the association.

(i) A statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years.

II. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall furnish the statements prescribed by paragraph II upon the written request of any prospective unit owner within 10 days of the receipt of such request.

Source. 1977, 468:1, eff. Sept. 10, 1977. 2004, 73:2, eff. Jan. 1, 2005.

**TITLE XXXI
TRADE AND COMMERCE
CHAPTER 356-B
CONDOMINIUM ACT**

NOTE: In August 2016 the State of New Hampshire revised many of its laws pertaining to the operation of condominium associations. This **Section 8** is updated to reflect the revisions.

Complete Chapter 356-B information relating to condominium associations is available on-line at:

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XXXI-356-B.htm>

The following are specific areas that may be referenced in our condominium documents.

I. General Principles

356-B:6 Eminent Domain.

I. If any portion of the common area is taken by eminent domain, the award therefor shall be allocated to the unit owners in proportion to their respective undivided interests in the common area; provided, however, that the portion of the award attributable to the taking of any permanently assigned limited common area shall be allocated by the decree to the unit owner of the unit to which that limited common area was so assigned at the time of the taking. If that limited common area was permanently assigned to more than one unit at the time of the taking, then the portion of the award attributable to the taking thereof shall be allocated in equal shares to the unit owners of the units to which it was so assigned or in such other shares as the condominium instruments may specify for this express purpose. A permanently assigned limited common area is a limited common area which cannot be reassigned or which can be reassigned only with the consent of the unit owner or owners of the unit or units to which it is assigned. In the event of a taking or acquisition of a part or all of the common areas by a condemning authority, the statutory notices of hearing shall be served on the unit owners' association acting on behalf of all of the unit owners at least 30 days prior to such hearing, and the award or proceeds of settlement shall be payable to the unit owners' association for the use and benefit of the unit owners and their mortgagees as their interest may appear in accordance with this section. The unit owners' association shall represent the unit owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authorities for acquisition of the common areas or any part thereof and the unit owners' association shall act as attorney-in-fact for each unit owner for the purposes of this section.

II. If one or more units are taken by eminent domain, the undivided interest in the common area appertaining to any such unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common area. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of any unit taken for his undivided interest in the common area as well as for his unit.

III. If portions of any unit are taken by eminent domain, the court shall determine the fair market value of the portions of such unit not taken and the undivided interest in the common area appertaining to any such units shall be reduced, in the case of each such unit, in proportion to the diminution in the fair market value of such unit resulting from the taking. The portions of undivided interest in the common area thereby divested from the unit owners of any such units shall be reallocated among those units and the other units in the condominium in proportion to their respective undivided interests in the common area, with any units partially taken participating in such reallocation on the basis of their undivided interests as reduced in accordance with the preceding sentence. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of his undivided interest in the common area divested from him by operation of the first sentence of this paragraph and not revested in him by operation of the following sentence, as well as for that portion of his unit taken by eminent domain.

IV. If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the condominium instruments, then the entire undivided interest in the common area appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common area, and the remaining portion of that unit shall thenceforth be common area. The court shall enter a decree

reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of such unit for his entire undivided interest in the common area and for his entire unit.

V. Votes in the unit owners' association, rights to future common profits, and liabilities for future common expenses not specially assessed, appertaining to any unit or units taken or partially taken by eminent domain, shall thenceforth appertain to the remaining units, being allocated to them in proportion to their relative voting strength in the unit owners' association, with any units partially taken participating in such reallocation as though their voting strength in the unit owners' association has been reduced in proportion to their reduction in their undivided interests in the common area, and the decree of the court shall provide accordingly.

VI. The decree of the court shall require recordation thereof in the registry of deeds of the county in which the condominium is located.

Source. 1977, 468:1. 1989, 149:1, eff. July 16, 1989.

356-B:6-a Applicability of Chapter. –

I. In the event of a conflict between the declaration or bylaws, the provisions of RSA 356-B shall control.

II. A unit owners association may amend or revise the condominium documents to comply with the requirements of RSA 356-B without the need to obtain mortgagee approval if the changes do not affect the mortgagee's equity or security interest in the property.

Source. 2016, 311:4, eff. Aug. 1, 2016.

II. Condominium Instruments

356-B:16 Contents of Declaration. –

- I. The declaration for every condominium shall contain the following:
- (a) The name of the condominium, which name shall include the word "condominium" or be followed by the words "a condominium";
 - (b) The name of the town or city and county in which the condominium is located;
 - (c) A legal description by metes and bounds of the land submitted to this chapter;
 - (d) A description or delineation of the boundaries of the units, including the horizontal boundaries, if any, as well as the vertical boundaries;
 - (e) A description or delineation of the limited common areas, if any, showing or designating the unit or units to which each is assigned;
 - (f) A description or delineation of all common areas not within the boundaries of any convertible lands which may subsequently be assigned as limited common areas, together with a statement that they may be so assigned and a description of the method whereby any such assignments shall be made in accordance with RSA 356-B:19;
 - (g) The allocation to each unit of an undivided interest in the common areas in accordance with RSA 356-B:17;
 - (h) A statement of the purposes for which the condominium and each of the units are intended and restricted as to use;

(i) A description of the manner of determining appropriate action following damage to any portion of the condominium by fire or other casualty; and

(j) Such other matters as the declarant deems appropriate.

II. If the condominium contains any convertible land, the declaration shall also contain the following:

(a) A legal description by metes and bounds of each convertible land within the condominium;

(b) A statement of the maximum number of units that may be created within each such convertible land;

(c) A statement, with respect to each such convertible land, as to whether or not any portion of such convertible land will not be restricted to residential use, and, if not, the nature of the permitted uses, and the maximum percentage of the aggregate land and aggregate floor area of all units that may be created which will not be restricted exclusively to residential use;

(d) A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the submitted land in terms of quality of construction, the principal materials to be used, and architectural style;

(e) A description of all other improvements that may be made on each convertible land within the condominium;

(f) A statement that any units created within each convertible land will be substantially identical to the units on other portions of the submitted land, or a statement describing in detail any differences in design, layout, size, quality or other significant characteristics of the units that may be created therein; and

(g) A description of the declarant's reserved right, if any, to create limited common areas within any convertible land, and/or to designate common areas therein which may subsequently be assigned as limited common areas in terms of the types, sizes, and maximum number of such areas within each such convertible land.

Provided, that site plans and floor plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs II(a), (d), (e), (f) and (g), and that subparagraph II(c) need not be complied with if none of the units on other portions of the submitted land are restricted exclusively to residential use.

III. If the condominium is an expandable condominium, the declaration shall also contain the following:

(a) The explicit reservation of an option to expand the condominium;

(b) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be evidenced; or a statement that there are no such limitations;

(c) A time limit, not exceeding 7 years from the recording of the declaration, upon which the option to expand the condominium shall expire, provided, however, that the time limit contained in the declaration may be extended by not more than 7 years by an amendment to the declaration adopted pursuant to RSA 356-B:54, V, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

(d) A legal description by metes and bounds of all land that may be added to the condominium, henceforth referred to as "additional land";

(e) A statement as to whether, if any of the additional land is added to the condominium, all of it or any particular portion of it must be added, and, if not, a statement of any limitations as to what portions may be added or a statement that there are no such limitations;

(f) A statement as to whether portions of the additional land may be added to the

condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be added to the condominium;

(g) A statement of any limitations as to the locations of any improvements that may be made on any portions of the additional land added to the condominium, or a statement that no assurances are made in that regard;

(h) A statement of the maximum number of units that may be created on the additional land. If portions of the additional land may be added to the condominium and the boundaries of those portions are fixed in accordance with subparagraph III(f), the declaration shall also state the maximum number of units that may be created on each such portion added to the condominium. If portions of the additional land may be added to the condominium and the boundaries of those portions are not fixed in accordance with subparagraph III(f), then the declaration shall also state the maximum number of units per acre that may be created on any such portion added to the condominium;

(i) A statement, with respect to the additional land and to any portion or portions thereof that may be added to the condominium, as to whether or not any portion of such expandable land will not be restricted to residential use, and, if not, the nature of the permitted uses and the maximum percentage of the aggregate land and aggregate floor area of all units that may be created thereon which will not be restricted exclusively to residential use;

(j) A statement of the extent to which any structures created on any portion of the additional land added to the condominium will be compatible with structures on the submitted land in terms of quality of construction, the principal materials to be used, and architectural style, or a statement that no assurances are made in those regards;

(k) A description of all other improvements that will be made on any portion of the additional land added to the condominium or a statement of any limitations as to what other improvements may be made thereon, or a statement that no assurances are made in that regard;

(l) A statement that any units created on any portion of the additional land added to the condominium will be substantially identical to the units on the submitted land, or a statement of any limitations as to what differences in design, layout, size, quality or other significant characteristics of the units may be created thereon, or a statement that no assurances are made in that regard; and

(m) A description of the declarant's reserved right, if any, to create limited common areas within any portion of the additional land added to the condominium, and/or to designate common areas therein which may subsequently be assigned as limited common areas in terms of types, sizes, and maximum number of such areas within each such portion, or a statement that no assurances are made in those regards.

Provided, that site plans and floor plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs III(d), (e), (f), (g), (j), (k), (l) and (m), and that subparagraph III(i) need not be complied with if none of the units on the submitted land is restricted exclusively to residential use.

IV. If the condominium is a contractible condominium, the declaration shall also contain the following:

(a) The explicit reservation of an option to contract the condominium;

(b) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be evidenced; or a statement that there are no such limitations;

(c) A time limit, not exceeding 7 years from the recording of the declaration, upon which the option to contract the condominium shall expire, provided, however, that the

time limit contained in the declaration may be extended by not more than 7 years by an amendment to the declaration adopted pursuant to RSA 356-B:54, V, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

(d) A legal description by metes and bounds of all land that may be withdrawn from the condominium, henceforth referred to as "withdrawable land";

(e) A statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be withdrawn from the condominium; and

(f) A legal description by metes and bounds of all of the submitted land to which the option to contract the condominium does not extend. Provided, that site plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs IV(d), (e) and (f), and that subparagraph IV(f) shall not be construed in derogation of any right the declarant may have to terminate the condominium in accordance with RSA 356-B:33.

V. If the condominium is a leasehold condominium, then with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the condominium, the declaration shall set forth the county wherein the same are recorded and the deed book and page number where the first page of each such lease is recorded; and the declaration shall also contain the following:

(a) The date upon which each such lease is due to expire;

(b) A statement as to whether any land and/or improvements will be owned by the unit owners in fee simple, and, if so, either (a) a description of the same, including without limitation a legal description by metes and bounds of any such land, or (b) a statement of any rights the unit owners shall have to remove such improvements within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights; and

(c) A statement of the rights the unit owners shall have to redeem the reversion or any of the reversions, or a statement that they shall have no such rights. Provided, that after the recording of the declaration, no lessor who executed the same, and no successor in interest to such lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of his share of the rent to the person or persons designated in the declaration for the receipt of such rent and who otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. Acquisition or reacquisition of such a leasehold interest by the owner of the reversion or remainder shall not cause a merger of the leasehold and fee simple interests unless all leasehold interests in the condominium are thus acquired or reacquired.

VI. Wherever this section requires a legal description by metes and bounds of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, such requirement shall be deemed satisfied by any legally sufficient description and shall be deemed to require a legally sufficient description of any easements that are submitted to this chapter or that may be added to or withdrawn from the condominium, as the case may be. In the case of each such easement, the declaration shall contain the following:

(a) A description of the permitted use or uses;

(b) If less than all of those entitled to the use of all of the units may utilize such easement, a statement of the relevant restrictions and limitations on utilization; and

(c) If any persons other than those entitled to the use of the units may utilize such

easement, a statement of the rights of others to utilization of the same.

VII. Wherever this section requires a legal description by metes and bounds of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, an added requirement shall be a separate legally sufficient description of all lands in which the unit owners shall or may be tenants in common or joint tenants with any other persons, and a separate legally sufficient description of all lands in which the unit owners shall or may be life tenants. No units shall be situated on any such lands, however, and the declaration shall describe the nature of the unit owner's estate therein. No such lands shall be shown on the same site plans showing other portions of the condominium, but shall be shown instead on separate site plans.

Source. 1977, 468:1. 1991, 110:1, 2, eff. May 13, 1991.

356-B:18 Reallocation of Interests in the Common Areas.

I. If a condominium contains any convertible land or is an expandable condominium, then the declaration shall not allocate undivided interests in the common areas on the basis of value unless the declaration:

(a) Prohibits the creation of any units not substantially identical to the units depicted on the site plans and floor plans recorded pursuant to RSA 356-B:20, I and II; or

(b) Prohibits the creation of any units not described pursuant to RSA 356-B:16, II(f) (in the case of convertible lands) and RSA 356-B:16, III(l) (in the case of additional land), and contains from the outset a statement of the value that shall be assigned to every such unit that may be created.

II. Interests in the common areas shall not be allocated to any units to be created within any convertible land or within any additional land until site plans and floor plans depicting the same are recorded pursuant to RSA 356-B:20, III. But simultaneously with the recording of such site plans and floor plans the declarant shall execute and record an amendment to the declaration reallocating undivided interests in the common areas so that the units depicted on such site plans and floor plans shall be allocated undivided interests in the common areas on the same basis as the units depicted on the site plans and floor plans recorded simultaneously with the declaration pursuant to RSA 356-B:20, I and II.

III. If all of a convertible space is converted into common areas, including without limitation limited common areas, then the undivided interest in the common areas appertaining to such space shall thenceforth appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common areas. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced thereby.

IV. In the case of a leasehold condominium, if the expiration or termination of any lease causes a contraction of the condominium which reduces the number of units, then the undivided interest in the common areas appertaining to any units thereby withdrawn from the condominium shall thenceforth appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common areas. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced thereby.

Source. 1977, 468:1, eff. Sept. 10, 1977.

III. Unit Owners' Associations

356-B:35 Contents of the Bylaws. –

I. There shall be recorded simultaneously with the declaration a set of bylaws providing for the self-government of the condominium by an association of all the unit owners. The unit owners' association may be incorporated.

II. The bylaws shall provide the means by which the association shall elect a board of directors. The bylaws shall specify the powers and responsibilities of the same and the number and terms of its members. The bylaws may delegate to such board, among other things, any of the powers and responsibilities assigned by this chapter to the unit owners' association. The bylaws shall also specify which, if any, of its powers and responsibilities the unit owners' association or its board may delegate to a managing agent. The board of directors shall have a fiduciary relationship to members of the unit owners' association.

III. The bylaws shall provide for election by the board of directors or, if the declaration requires, by the association members, of a president, treasurer, secretary, and any other officers of the association the bylaws specify.

IV. The bylaws shall specify the qualifications, powers and duties, terms of office, and manner of electing and removing board members and officers and filling vacancies.

IV-a. The bylaws may require an employee of a managing agent or condominium association to complete a background check prior to employment. The cost of the background check shall be borne by the managing agent or the association.

V. The bylaws shall specify the officers who may prepare, execute, certify, and record amendments to the declaration on behalf of the association.

VI. The bylaws shall specify a method for the association members to amend the bylaws.

VII. The bylaws shall provide that the unit owners' association shall act on behalf of each unit owner in condemnation proceedings against the common areas of the condominium.

VIII. The bylaws shall contain any provision necessary to satisfy requirements of this chapter or the declaration concerning meetings, voting, quorums, and other activities of the association.

IX. The bylaws shall provide for any matter required by laws of this state other than this chapter to appear in the bylaws of organizations of the same type as the association.

X. Subject to the declaration and this chapter, the bylaws may provide for any other necessary or appropriate matters, including matters that may be adopted as rules.

XI. In any case where an amendment to the declaration is required by RSA 356-B:18, II, III, or IV, the person or persons required to execute the same shall also prepare and execute, and record simultaneously with such amendment, an amendment to the bylaws. The amendment to the bylaws shall allocate votes in the unit owners' association to new units on the same basis as was used for the allocation of such votes to the units depicted on site plans and floor plans recorded pursuant to RSA 356-B:20, I and II, or shall abolish the votes appertaining to former units, as the case may be. The amendment to the bylaws shall also reallocate rights to future common profits, and liabilities for future common expenses not specially assessed, in proportion to relative voting strengths as reflected by the said amendment.

Source. 1977, 468:1. 1989, 149:2, eff. July 16, 1989. 2016, 311:1, eff. Aug. 1, 2016.

356-B:36 Control by the Declarant. –

I. The condominium instruments may authorize the declarant, or a managing agent or some other person or persons selected or to be selected by the declarant, to appoint and remove some or all of the officers of the unit owners' association or its board of directors, or both, or to exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter to the unit owners' association, the officers, or the board of directors. But no amendment to the condominium instruments shall increase the scope of such authorization if there is any unit owner other than the declarant, and no such authorization shall be valid after the time limit set by the condominium instruments or after units to which 3/4 of the undivided interests in the common areas appertain have been conveyed, whichever occurs first. The time limit initially set by the condominium instruments shall not exceed 5 years in the case of an expandable condominium, 3 years in the case of a condominium containing any convertible land, or 2 years in the case of any other condominium.

II. If entered into during the period of control contemplated by paragraph I, no management contract, lease of recreational areas or facilities, or any other contract or lease executed by or on behalf of the unit owners' association, its board of directors, or the unit owners as a group, shall be binding after such period of control unless then renewed or ratified with the consent of unit owners of units to which a majority of the votes in the unit owners' association appertain.

III. If the unit owners' association is not in existence or does not have officers at the time of the creation of the condominium, the declarant shall, until there is such an association with such officers, have the power and the responsibility to act in all instances where this chapter requires action by the unit owners' association, its board of directors, or any officer or officers.

IV. This section shall be strictly construed to protect the rights of the unit owners.

Source. 1977, 468:1, eff. Sept. 10, 1977.

356-B:37 Meetings. –

I. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer who shall, at least 21 days in advance of any annual or regularly scheduled meeting, and at least 7 days in advance of any other meeting, provide to each unit owner notice of the time, place, and purpose or purposes of such meeting in conformity with RSA 356-B:37-a. The minimum time to give notice may be reduced or waived for a meeting called to deal with an emergency. Purposes of the meeting shall include any budget changes or proposal to remove an officer or member of the board of directors. The secretary or other duly authorized officer of the unit owners' association, who shall also be a member of the board of directors of the unit owners' association, shall prepare an affidavit which shall be accompanied by a list of the addresses of all unit owners currently on file with the association and shall attest that notice of the association meeting was provided to all unit owners on that list in a manner conforming to RSA 356-B:37-a. A copy of the affidavit and unit owners list shall be available at the noticed meeting for inspection by all owners then in attendance and shall be retained with the minutes of that meeting. The affidavit required in this

section shall be available for inspection by unit owners for at least 3 years after the date of the subject meeting.

II. An association shall hold a special meeting of unit owners to address any matter affecting the unit owners or the association if its president, a majority of the board of directors, or unit owners having at least 33 percent, or any lower percentage specified in the bylaws, of the votes in the association request that the secretary call the meeting. If the association does not notify unit owners of a special meeting within 30 days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly notify all the unit owners of an informational meeting, the purpose of which shall be to present the issue to fellow residents and unit owners. Only matters described in the meeting notice required by RSA 356-B:37-a may be considered at a special meeting.

III. Except as otherwise provided in the bylaws, meetings of the association shall be conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised.

IV. Unit owners shall be given a reasonable opportunity at any meeting to comment regarding any matter affecting the association.

V. The declaration or bylaws may allow for meetings of unit owners to be conducted by telephonic, video, or other conferencing process, as provided in RSA 356-B:37-b.

VI. The board of directors shall make copies of the minutes of all meetings available to the unit owners within 60 days of the meeting or 15 days of the date such minutes are approved by the board, whichever occurs first. The association may opt to provide the minutes electronically or publish them on the association website, in which case the owners shall be informed of the web address.

Source. 1977, 468:1. 1990, 80:1. 1993, 186:1, eff. June 9, 1993. 2009, 184:1, eff. Jan. 1, 2010. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-a Notice to Unit Owners. – An association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit owner designates. If the unit owner does not designate an address, the association shall deliver notices by hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-b Meetings by Telephonic, Video, or Other Conferencing Process. –

When the declaration or bylaws provides, the association, committees thereof, and the board of directors may meet by telephonic, video, or other conferencing process, provided that the requirements of RSA 356-B:37-c are also met.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-c Meetings of the Board of Directors and Committees of the Association.

– The following requirements apply to meetings of the board of directors and committees of the association authorized to act for the association:

I. For purposes of this section, a gathering of board members at which the board members do not conduct association business is not a meeting of the board of directors. The board of directors and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this

section.

II. Not less than once each quarter, and at such additional times as may be specified in the condominium bylaws, the board of directors shall, subject to the provisions of RSA 356-B:37-d, hold an open regular meeting during which unit owners shall be afforded a reasonable opportunity to comment on any matter affecting the association. At its discretion, the board of directors may meet in a meeting not open to unit owners provided the meeting is recorded and the recording is made available to unit owners for up to 30 days upon request.

III. Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the bylaws shall give notice of each meeting of the board of directors to each board member and to the unit owners. The notice shall be given at least 10 days before the meeting and shall state the time, date, place, and agenda of the meeting.

IV. If any materials are distributed to the board of directors before the meeting, the board of directors at the same time shall make copies of those materials reasonably available to unit owners, except that the board of directors need not make available copies of unapproved minutes or matters that are to be considered in executive session.

V. In the case of self-managed community associations, meetings of the board of directors or committees expressly for purposes of implementation of decisions made in open meetings shall be exempt from the requirements of RSA 356-B:37, 356-B:37-a, and this section.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:37-d Executive Session. – The board of directors and association committees may hold an executive session only during a regular or special meeting of the board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to:

I. Consult with the association's attorney.

II. Discuss existing or potential litigation or mediation, arbitration, or administrative proceedings.

III. Discuss labor or personnel matters.

IV. Discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage or prevent public knowledge of the matter to be discussed if the board of directors or a committee determines that public knowledge would violate the privacy of any person.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:38 Quorums. –

I. Unless the condominium instruments otherwise provide, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than 33 1/3 percent of the votes are present at the beginning of such meeting. The bylaws may provide for a smaller percentage, not less

than 25 percent, or for a larger percentage for associations having fewer than 25 units; provided, however, this paragraph shall not apply if the condominium is comprised of time sharing interests.

II. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the board of directors if persons entitled to cast more than 1/2 of the votes in that body are present at the beginning of such meeting.

III. If a quorum is not met for an annual meeting, the board shall reschedule the meeting within 60 days and provide proper notice and proxies.

Source. 1977, 468:1, eff. Sept. 10, 1977. 2016, 311:2, eff. Aug. 1, 2016.

356-B:39 Voting. –

I. The bylaws may allocate to each unit depicted on site plans and floor plans that comply with RSA 356-B:20, I and II, a number of votes in the unit owners' association proportionate to the undivided interest in the common areas appertaining to each such unit.

II. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

III. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. But if more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with agreement of a majority in interest of the owners unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this paragraph to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a unit owner.

IV. (a) The votes appertaining to any unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such persons. A person may not cast undirected proxies representing more than 10 percent of the votes in the association. The proxy or proxies shall list the name of the person who is to vote. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated or if it purports to be revocable without the required notice. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. The board of directors shall deliver to the unit owners, together with their notice of

meeting and agenda, proxy forms bearing a control number which the board of directors shall correlate to the list of all unit owners then entitled to vote. At the noticed meeting, the board of directors shall recover all proxies and compare them to the control list maintained for that purpose. Any proxies which are on a form other than that provided by the board of directors or which do not correlate with the control list maintained by the board of directors shall be disregarded for purposes of determining whether a quorum was present at the meeting and for purposes of casting any vote at that meeting; provided, however, this paragraph shall not apply if the condominium is comprised of time sharing interests.

(b) The board of directors shall retain all proxies delivered to the board of directors and all independent written confirmation of any such proxies for inspection by the unit owners for a period of not less than 3 years from the date of the unit owners' association meeting.

V. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

VI. If more than 50 percent of the votes are acquired by a single person after developer control is terminated, a 2/3 majority shall be required to change bylaws, budgets, and any contracted property management.

Source. 1977, 468:1. 1993, 186:2, eff. June 9, 1993. 2016, 311:2, eff. Aug. 1, 2016.

356-B:39-a Voting Without a Meeting. – Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. In that event, the following requirements apply:

I. The association shall notify the unit owners, in the manner prescribed by RSA 356-B:37-a, that the vote will be taken by ballot and deliver a paper or electronic ballot to every unit owner entitled to vote on the matter.

II. The ballot shall:

(a) Set forth each proposed action and provide an opportunity to vote for or against the action.

(b) Indicate the number of responses needed to meet the quorum requirements.

(c) State the percent of votes necessary to approve each matter other than election of directors.

(d) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 10 days after the date the association delivers the ballot.

(e) Describe the time, date, and manner by which unit owners wishing to deliver information to all unit owners regarding the subject of the vote may do so.

III. Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability or attempted revocation by the person that cast that vote.

IV. Approval by ballot pursuant to this section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40 Members of the Board of Directors and Officers. –

I. Except as provided in the declaration, the bylaws, paragraph II, or other provisions of this chapter, the board of directors acts on behalf of the association. In the performance of their duties, officers and members of the board of directors appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee. Officers and members of the board of directors not appointed by the declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized under RSA 292, and are subject to the conflict of interest rules governing directors and officers under RSA 292. The standards of care and loyalty described in this paragraph apply regardless of the form in which the association is organized.

II. The board of directors shall not:

- (a) Amend the declaration except as otherwise provided in this chapter.
- (b) Amend the bylaws.
- (c) Terminate the unit owners' association.
- (d) Elect members of the board of directors but may fill vacancies in its membership for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of executive board members.

(e) Determine the qualifications, powers, and duties, or terms of office of members of the board of directors.

II-a. An officer shall not directly receive any salary or compensation from the association for the performance of duties as an officer or board member and shall not in any other way benefit financially from service to the association.

II-b. If annually approved by a 2/3 majority of the voting interests present at a properly called meeting of the association, the association may waive the requirements of paragraph II-a.

III. The board of directors shall adopt budgets as provided in RSA 356-B:40-c.

IV. Subject to the provisions of paragraph V, the declaration may provide for a period of declarant control of the association, during which a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the board of directors. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board of directors before the period ends. In that event, the declarant may require during the remainder of the period that specified actions of the association or board of directors, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, and except as provided in RSA 356-B:36, a period of declarant control terminates no later than the earliest of:

- (a) Sixty days after conveyance of 60 percent of the units that may be created to unit owners other than a declarant;
- (b) Two years after all declarants have ceased to offer units for sale in the ordinary course of business;
- (c) Two years after any right to add new units was last exercised; or
- (d) The date the declarant, after giving notice in a record to unit owners, records an instrument voluntarily surrendering all rights to control activities of the association.

V. Not later than 60 days after conveyance of 1/4 of the units that may be created to unit owners other than a declarant, at least one member and not less than 25 percent of the members of the board of directors shall be elected by unit owners other than the declarant. Not later than 60 days after conveyance of 1/2 of the units that may be

created to unit owners other than a declarant, not less than 1/2 of the members of the board of directors shall be elected by unit owners other than the declarant.

VI. Not later than the termination of any period of declarant control, the unit owners shall elect a board of directors with at least 3 members, a majority of whom shall be unit owners. Unless the declaration provides for the election of officers by the unit owners, the board of directors shall elect the officers. The members of the board of directors and officers shall take office upon election or appointment.

VII. If the condominium instruments provide that any officer or officers must be unit owners, then any such officer who disposes of all of his or her units in fee or for a term or terms of more than one year shall be deemed disqualified from continuing in office unless the condominium instruments otherwise provide, or unless the officer acquires or contracts to acquire another unit in the condominium under terms giving the officer a right of occupancy thereto effective on or before the termination of the right of occupancy under such disposition or dispositions.

VIII. If the condominium instruments provide that any officer or officers must be unit owners, then notwithstanding the provisions of RSA 356-B:12, I, the term "unit owner" in such context shall, unless the condominium instruments otherwise provide, be deemed to include, without limitation, any director, officer, partner in, or trustee of any person which is, either alone or in conjunction with another person or persons, a unit owner. Any officer who would not be eligible to serve as such were he or she not director, officer, partner in, or trustee of such a person shall be deemed disqualified from continuing in office if the officer ceases to have any such affiliation with that person, or if that person would itself have been deemed to have disqualified itself from continuing in such office under paragraph I were it a natural person holding such office.

IX. Any officer is a suitable person to receive service of process in any proceeding against the association.

X. For the purpose of receipt of notification by a municipality of a local land use board hearing, the officers shall be responsible for serving as agents of the unit owners' association.

Source. 1977, 468:1. 1986, 33:1, eff. June 28, 1986. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40-a Managing Agent and Contractors; Disclosure of Fees; Qualifications. –

I. If the unit owners' association or the board of directors has delegated certain powers and duties to a managing agent, the managing agent shall disclose any referral fees received from contract work performed on behalf of the association to the board of directors prior to the next regularly scheduled board meeting, unless the terms of any referral fees are disclosed in the managing agent's contract with the unit owners' association, in which case disclosure of fees actually received shall not be required.

II. The managing agent also shall disclose to the board of directors the amount and purpose of any fees, other than maintenance fees, received from a unit owner, unless the terms of any such fees are disclosed in the managing agent's contract with the unit owners' association, in which case disclosure of fees actually received shall not be required.

III. Any contractor licensed by the state of New Hampshire who performs work for a unit owner shall disclose on the bill any referral fee paid by the contractor.

Source. 2011, 96:1, eff. Jan. 1, 2012. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40-b Removal of Officers and Directors. –

I. Notwithstanding any provision of the declaration or bylaws to the contrary, unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, may remove any member of the board of directors and any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, provided that:

(a) A member appointed by the declarant may not be removed by a unit owner vote during the period of declarant control.

(b) The unit owners may not consider whether to remove a member of the board of directors or an officer elected by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting.

II. At any meeting at which a vote to remove a member of the board of directors or an officer is to be taken, the member or officer being considered for removal shall have a reasonable opportunity to speak before the vote.

Source. 2015, 131:1, eff. Jan. 1, 2016. 2016, 311:2, eff. Aug. 1, 2016.

356-B:40-c Adoption of Budgets and Special Assessments. –

I. The board of directors, at least annually, shall adopt a proposed budget for the unit owners' association for consideration by the unit owners. Not later than 30 days after adoption of a proposed budget, the board of directors shall provide to all the unit owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the board shall set a date not less than 10 days or more than 60 days after providing the summary for a meeting of the unit owners to consider ratification of the budget. Unless at that meeting 2/3 of all unit owners or any larger number specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. If a proposed budget is rejected, the budget last ratified by the unit owners continues until the unit owners ratify a subsequent budget.

II. The board of directors, at any time, may propose a special assessment. Except as otherwise provided in paragraph III, the assessment is effective only if the board of directors follows the procedures for ratification of a budget described in paragraph I and the unit owners do not reject the proposed assessment.

III. If the board of directors determines by a 2/3 vote that a special assessment is necessary to respond to an emergency:

(a) The special assessment becomes effective immediately in accordance with the terms of the vote.

(b) Notice of the special assessment shall be provided promptly to all unit owners.

(c) The board of directors may spend the funds paid on account of the special assessment only for the purposes described in the vote.

Source. 2016, 311:2, eff. Aug. 1, 2016.

356-B:43 Insurance. –

I. The condominium instruments shall require the unit owners' association, or the board of directors or managing agent on behalf of such association, to obtain:

(a) A master casualty policy affording fire and extended coverage in an amount equal to the full replacement value of the structures within the condominium, or of such

structures that in whole or in part comprise portions of the common areas;

(b) A master liability policy, in an amount specified by the condominium instruments, covering the unit owners' association, the board of directors, if any, the managing agent, if any, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the condominium, and all unit owners and other persons entitled to occupy any unit or other portion of the condominium; and

(c) Such other policies as may be required by the condominium instruments, including, without limitation, workers' compensation insurance, liability insurance on motor vehicles owned by the association, and specialized policies covering lands or improvements in which the unit owners' association has or shares ownership or other rights.

II. When any policy of insurance has been obtained by or on behalf of the unit owners' association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each unit owner by the officer required to send notices of meetings of the unit owners' association. Such notices shall be sent in accordance with RSA 356-B:37-a.

III. Unless the unit owners vote to terminate the condominium under RSA 356-B:34, the proceeds of the master casualty policy shall be used to repair, replace or restore the structure or common area damaged by casualty.

Source. 1977, 468:1, eff. Sept. 10, 1977. 2016, 311:3, eff. Aug. 1, 2016.

356-B:46 Lien for Assessments. –

I. The unit owners' association shall have a lien on every condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments, if perfected as hereinafter provided. The said lien, once perfected, shall be prior to all other liens and encumbrances except (a) real estate tax liens on that condominium unit, (b) liens and encumbrances recorded prior to the recordation of the declaration, and (c) sums unpaid on any first mortgages or first deeds of trust encumbering that condominium unit and securing institutional lenders. The provisions of this paragraph shall not affect the priority of mechanics' and materialmen's liens.

II. Notwithstanding any other provision of this section, or any other provision of law, all memoranda of liens arising under this section shall be recorded in the registry of deeds in each county in which any part of the condominium is located. Such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

III. The unit owners' association, in order to perfect the lien given by this section, shall file, before the expiration of 6 months from the time such assessment became due and payable in the registry of deeds in the county in which such condominium is situated, a memorandum, verified by the oath of the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, which contains the following:

- (a) A description of the condominium unit in accordance with RSA 356-B:9;
- (b) The name or names of the persons constituting the unit owners of that condominium unit;
- (c) The amount of unpaid assessments currently due or past due together with the date when each fell due; and
- (d) The date of issuance of the memorandum.

It shall be the duty of the register in whose office such memorandum shall be filed as hereinabove provided to record and index the same as provided in paragraph II, in the names of the persons identified therein as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment or decree enforcing such lien.

IV. No suit to enforce any lien perfected under paragraph III shall be brought after 6 years from the time when the memorandum of lien was recorded; provided, however, that the filing of a petition to enforce any such lien in any suit wherein such petition may be properly filed shall be regarded as the institution of a suit under this section; and provided further that nothing herein shall extend the time within which any such lien may be perfected.

V. The judgment or decree in an action brought pursuant to this section shall include, without limitation, reimbursement for costs and attorneys' fees, together with interest at the maximum lawful rate for the sums secured by the lien from the time such sum became due and payable.

VI. When payment or satisfaction is made of a debt secured by the lien perfected by paragraph III, said lien shall be released in the same manner as required by RSA 479:7 for mortgages. For the purposes of this section, the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor and shall discharge said lien.

VII. Nothing in this section shall be construed to prohibit actions at law to recover sums for which paragraph I creates a lien, maintainable pursuant to RSA 356-B:15.

VIII. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of the same, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 business days from the receipt of such request shall extinguish the lien created by paragraph I as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the board of directors, and every unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

IX. Notwithstanding any law, rule, or provision of the condominium declaration, bylaws, or rules to the contrary, the unit owners' association may authorize, pursuant to RSA 356-B, its board of directors to, after 30 days' prior written notice to the unit owner and unit owner's first mortgagee of nonpayment of common assessments, terminate the delinquent unit's common privileges and cease supplying a delinquent unit with any and all services normally supplied or paid for by the unit owners' association. Any terminated services and privileges shall be restored upon payment of all assessments.

X. The unit owners' association may collect an amount of up to 6 months' common expense assessments in advance from unit owners and hold the amount so collected in escrow and, upon default by any unit owner in the payment of common expense assessments, apply the same to cure such default.

Source. 1977, 468:1. 1994, 163:1, eff. July 22, 1994.

356-B:47 Restraints on Alienation. – If the condominium instruments create any rights of first refusal or other restraints on free alienability of the condominium units, such rights

and restraints shall be void unless the condominium instruments make provision for promptly furnishing to any unit owner or purchaser requesting the same a recordable statement certifying to any waiver of, or failure or refusal to exercise, such rights and restraints, in all cases where such waiver, failure, or refusal does in fact occur. Failure or refusal to furnish promptly such a statement in such circumstances in accordance with the provisions of the condominium instruments shall make all such rights and restraints inapplicable to any disposition of a condominium unit in contemplation of which such statement was requested. Any such statement shall be binding on the association of unit owners, the board of directors, and every unit owner. Payment of a fee not exceeding \$25 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

Source. 1977, 468:1, eff. Sept. 10, 1977.

IV. Administration and Enforcement

356-B:58 Resale by Purchaser.

I. In the event of any resale of a condominium unit or any interest therein by any person other than the declarant, the prospective unit owner shall have the right to obtain from the owners' association, prior to the contract date of the disposition, the following:

(a) Appropriate statements pursuant to RSA 356-B:46, VIII and, if applicable, RSA 356-B:47;

(b) A statement of any capital expenditures and major maintenance expenditures anticipated by the unit owners' association within the current or succeeding 2 fiscal years;

(c) A statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the board of directors;

(d) A copy of the income statement and balance sheet of the unit owners' association for the last fiscal year for which such statement is available;

(e) A statement of the status of any pending suits or judgments in which the unit owners' association is a party defendant;

(f) A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association and what additional insurance coverage would normally be secured by each individual unit owner; and

(g) A statement that any improvements or alterations made to the unit, or the limited common areas assigned thereto, by the prior unit owner are not known to be in violation of the condominium instruments.

(h) A copy of the condominium declaration, by-laws, and any formal rules of the association.

(i) A statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years.

II. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall furnish the statements prescribed by paragraph I upon the written request of any prospective unit owner within 10 days of the receipt of such request.

Source. 1977, 468:1, eff. Sept. 10, 1977. 2004, 73:2, eff. Jan. 1, 2005.