

**ORCHARD KNOLLS HOMEOWNERS ASSOCIATION, INC.**

**BY-LAWS**

**ARTICLE I**

**NAME, LOCATION, PRINCIPAL OFFICE, MAIL, & CONTACT INFORMATION**

The name of the corporation is the ORCHARD KNOLLS HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the “Association”. The principal office of the corporation shall be located at: Associated Bookkeeping Services, 811 Russell Avenue, Suite 301, Gaithersburg, Maryland 20886, c/o Cheryl Berger - but meetings of the members and directors may be held at such places within the State of Maryland as may be designated by the Board of Directors. Mail may be sent directly to Orchard Knolls Homeowners Association at: P/O Box 4225, North Potomac, Maryland 20885. Board of Directors can be contacted on the internet at: [www.orchardknolls.org](http://www.orchardknolls.org). E-mail address is: info@orchardknolls.org

**ARTICLE II**

**DEFINITIONS**

Section 1. “Association” shall mean and refer to the ORCHARD KNOLLS HOMEOWNERS ASSOCIATION, INC., a non-stock, non-profit Maryland corporation, its successors and assigns.

Section 2. “Property” shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. “Common Area” shall mean the sum of all real property owned by the Association for the common use and enjoyment of all the Owners.

Section 4. “Lot” shall mean and refer to any parcel of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.

Section 5. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. “Declarant” shall mean and refer to NVLand, Inc., Elm Street Development Corp., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, but only to the extent any of the rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant are specifically assigned or transferred to such successors and assigns.

Section 7. “Declaration” shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Property recorded among the Land Records for Montgomery County, Maryland, including amendments and supplements thereto.

Section 8. “Member” shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9. Mortgagee. “Mortgagee”, as used herein, means the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. “Mortgage”, as used herein, shall include deed of trust. “First Mortgage”, as used herein, shall mean a mortgage with priority over other mortgages. As used in these By—Laws, the term “mortgagee” shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in these By-Laws, the term “institutional mortgagee” or “institutional holder” shall include banks, trust companies, insurance associations, mutual savings banks, credit unions, trusts, pension funds, mortgage companies, Federal National Mortgage Association (“FNMA”), Government National Mortgage Association (“GNMA”), Federal Home Loan Mortgage Corporation (“FHLMC”), all corporations and any agency or department of the United States Government or of any state or municipal government. As used in these By—Laws the term “holder” or “mortgagee” shall include the parties secured by any deed of trust or any beneficiary thereof. In the event any mortgage is insured by the Federal Housing Administration (“FHA”) or guaranteed by the Veterans Administration (“VA”), then as to such mortgage the expressions “mortgagee” and “institutional mortgagee” include the FHA or the VA, as the circumstances may require, acting, respectively, through the Federal Housing Commissioner and the Commissioner of Veterans Benefits or through other duly authorized agents.

Section 10. Other Definitions. Unless it is plainly evident from the context that a different meaning is intended, other terms used herein shall have the same meaning as they are defined to have in the Declaration for the Orchard Knolls Homeowners Association.

### ARTICLE III

#### MEMBERSHIP

Section 1. Membership. The Association shall have two (2) classes of voting membership which shall be known as “Class A” and “Class B”:

Class A: Class A members shall be all Owners with the exception of the Declarant (with respect to any Lot for which the Declarant holds a Class B membership). Class A members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast by a Class A member with respect to any Lot.

Class B: The Class B member(s) shall be the Declarant. The Class B member(s) shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership upon the happening of any of the following events, whichever

occurs earliest:

(i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, except when the provisions of Article ii of the Declaration of Covenants permit additional land to be annexed, and such annexation may cause the total Class B votes to again exceed the total Class A votes, the Class B membership shall not be terminated under this paragraph; or

(ii) seven (7) years from the date of recordation of the Declaration; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid seven (7) year period shall be extended by a period of time equal to the length of the delays or two (2) years, whichever is less.

Section 2. Membership Certificates. In the event the Board of Directors considers it necessary or appropriate to issue membership certificates or the like, then each such membership certificate shall state that the Association is organized under the laws of the State of Maryland, the name of the registered holder or holders of the membership represented thereby, and shall be in such form as shall be approved by the Board of Directors. Membership certificates shall be consecutively numbered, bound in one or more books, and shall be issued therefrom upon certification as to the transfer of title to the Lot to which such membership is appurtenant. Every membership certificate shall be signed by the President or a Vice President and the Secretary or an Assistant Secretary and shall be sealed with the corporate seal. Such signatures and seal may be original or facsimile.

Section 3. Lost Certificates. The Board of Directors may direct that a new certificate or certificates be issued in place of any certificate or certificates previously issued by the Association and alleged to have been destroyed or lost, upon the making of an affidavit of that fact by the person claiming the membership certificate to be lost or destroyed. When authorizing such issuance of a new certificate or certificates, the Board of Directors may, in its discretion, and as a condition precedent to the issuance thereof, require the registered holder or holders of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Board of Directors shall require and to give the Association an account thereof prior to the issuance of a new certificate.

Section 4. Liquidation Rights. In the event of any voluntary or involuntary dissolution of the Association each Class A member of the Association shall be entitled to receive out of the assets of the Association available for distribution to the members an amount equal to that proportion of such assets which the number of Class A memberships held by such member bears to the total number of Class A memberships of the Association then issued and outstanding.

## ARTICLE IV

### MEETINGS OF MEMBERS

Section 1. Place of Meeting. Meetings of the membership shall be held at the principal office or

place of business of the Association or at such other suitable place within the State of Maryland which is reasonably convenient to the membership and as may from time to time be designated by the Board of Directors.

Section 2. Annual Meetings. The first annual meeting of the members of the Association shall be held at such time and place as may be designated by the Board of Directors; provided, however, that the first annual meeting of the members shall be held within one (1) year from the date of filing of the Articles of Incorporation of the Association with the State Department of Assessments and Taxation of Maryland or earlier if required by law. Thereafter, the annual meetings of the members shall be held during the same month of each succeeding year. At such meeting there shall be elected by ballot of the members a Board of Directors in accordance with the requirements of Article V of these By—Laws. The members may also transact such other business as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the members as directed by resolution of the Board of Directors or upon a petition signed by at least twenty-five percent (25%) of the then members having been presented to the Secretary; provided, however, that no special meetings shall be called either (a) except upon resolution of the Board of Directors, prior to the first annual meeting of the members as hereinabove provided for; or (b) to consider any matter which is substantially the same as a matter voted on at any special meeting of the members held during the preceding twelve (12) months. The Secretary shall inform the members who petition for a special meeting of the reasonably estimated cost of preparing and mailing a notice of the meeting and, upon payment of the estimated cost to the Association, shall notify each member entitled to notice of the meeting. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as is stated in the notice.

Section 4. Notice of Meetings. it shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each member of record, at his address as it appears on the membership books of the Association or, if no such address appears, at his last known place of address, at least ten (10) but not more than ninety (90) days prior to such meeting. Notice by either such method shall be considered as notice served. Attendance by a member at any meeting of the members, either in person or by proxy, shall be a waiver of notice by him of the time, place and purpose of that meeting. Notice of any annual or special meeting of the members of the Association may also be waived by any member either prior to, at or after any such meeting.

Section 5. Roster of Membership. The Board of Directors of the Association shall maintain a current roster of the names and addresses of each member to which written notice of meetings of the members of the Association shall be delivered or mailed. Each owner shall furnish the Board of Directors with his name and current mailing address. (MAINTAINED AT ABS)

Section 6. Quorum. ~~The presence, either in person or by proxy, of members entitled to cast twenty five percent (25%) of the votes of each class of membership, shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of members, except as otherwise provided in the Articles of Incorporation, the Declaration or the By Laws. If the~~

~~number of members at a meeting drops below the quorum and the question of a lack of a quorum is raised, no business may thereafter be transacted. The members present thereat shall have the power to adjourn the meeting from time to time and call an additional meeting giving at least fifteen (15) days notice. At the additional meeting, the members present in person or by proxy shall constitute a quorum.~~ (REVISED AND AMENDED APRIL 26, 1995 – See “First Amendment to By-Laws” that date).

Section 7. Adjourned Meetings. If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may, adjourn and reconvene the meeting in accordance with the provisions and requirements of Section 5—206 of the Corporations and Associations Article, Annotated Code of Maryland (1985 Repl. Vol.), as from time to time amended.

Section 8. Voting. At every meeting of the members, each Class A member shall have the right to cast one (1) vote on each question for each Class A membership which he owns and each of the Class B members shall have the right to cast three (3) votes on each question for each Class B membership which he owns. The vote of the members representing fifty-one percent (51%) of the total of the votes of the membership present at the meeting, in person or by proxy, calculated as aforesaid, shall be necessary to decide any question brought before such meeting, unless the question is one upon which, by the express provision of law or of the Articles of Incorporation, or of the Declaration or of these By—Laws, a different vote is required, in which case such express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by any other owner of such membership is noted at such meeting. In the event all of the co—owners of any membership who are present at any meeting of the members are unable to agree on the manner in which the votes for such membership shall be cast on any particular question, then such vote shall be counted for purposes of deciding that question in accordance with the provisions and requirements of Section 2—508 of the Corporations and Associations Article, Annotated Code of Maryland (1985 Repl. Vol.), as from time to time amended.

In the event any membership is owned by a corporation, then the vote for any such membership shall be cast by a person designated in a certificate signed by the President or any Vice President of such corporation and attested by the Secretary or an Assistant Secretary of such corporation and filed with the Secretary of the Association, prior to or during the meeting. Any such certificate shall remain valid until revoked or superseded in writing. The vote for any membership which is owned by a trust or partnership may be exercised by any trustee or partner thereof, as the case may be, and, unless any objection or protest by any other such trustee or partner is noted at such meeting, the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes.

**Delinquent Payments = Loss Of Vote:** No Class A member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

Whenever in these By—Laws any action is required to be taken by a specified percentage of “each class of the then members” of the Association, then such action shall be required to be taken separately by the specified percentage of the votes of the then outstanding Class A members of the Association and the specified percentage of the votes of the then outstanding Class B members of the Association. Whenever in these By-Laws any action is required to be taken by a specified percentage of “both classes of the then members” of the Association, then such action shall be required to be taken by the specified percentage of the votes of the then outstanding cumulative membership of the membership.

Section 9. Action Without Meeting. Any action required or permitted to be taken at any annual or special meeting of the members may be taken without a meeting if the required percentage of the members shall individually or collectively consent in writing to such action and if such written consent or consents is filed with the minutes of the proceedings of the members.

Section 10. Proxies. A member may appoint any other member or the Declarant or the Management Agent as his proxy. Any proxy must be in writing and must be filed with the Secretary in form approved by the Board of Directors before the appointed time of each meeting. Unless limited by its terms, any proxy shall continue until revoked by a written notice of revocation filed with the Secretary or by the death of the member; provided, however, that no proxy shall be effective for a period in excess of one hundred eighty (180) days unless granted to a mortgagee or lessee of the Lot to which the votes are appurtenant.

Section 11. Rights of Mortgagees. Any institutional mortgagee of any Lot who desires notice of the annual and special meetings of the members shall notify the Secretary to that effect by Registered Mail - Return Receipt Requested. Any such notice shall contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the annual and special meetings of the members should be addressed. The Secretary of the Association shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each annual or special meeting of the members to each such institutional mortgagee, in the same manner, and subject to the same requirements and limitations as are otherwise provided in this Article for notice to the members. Any such institutional mortgagee shall be entitled to designate a representative to attend any annual or special meeting of the members and such representative may participate in the discussion at any such meeting and may, upon request made to the Chairman in advance of the meeting, address the members present at any such meeting. Such representative shall have not voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the members upon request made in writing to the Secretary.

Section 12. Order of Business. The order of business at all regularly scheduled meetings of the members shall be as follows:

- (a) Roll call and certificate of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of minutes of preceding meeting
- (d) Reports of officers

- (e) Reports of Committee Chairpersons
- (f) Unfinished business
- (g) New business
- (h) Election or appointment of inspectors of election.
- (i) Election of directors.
- (j) Adjournment.

In the case of special meetings, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meeting.

Section 13. Rules of Order and Procedure. The rules of order and all other matters or procedure at all annual and special meetings of the members shall be determined by the Chairman of such meeting.

Section 14. Inspectors of Election. The Board of Directors may, in advance of any annual or special meeting of the members appoint an uneven number of one or more inspectors of election to act at the meeting and at any adjournment thereof. In the event inspectors are not so appointed, the Chairman of any annual or special meeting of members shall appoint such inspectors of election. Each inspector so appointed, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector of election at such meeting. The oath so taken shall be filed with the Secretary of the Association. No officer or director of the Association, and no candidate for director of the Association, shall act as an inspector of election at any meeting of the members if one of the purposes of such meeting is to elect directors.

## ARTICLE V

### BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of the Association shall be managed by a Board of Directors initially consisting of three (3) natural persons who shall be designated by the Declarant and who shall hold office until the election of their successors at the first annual meeting of the members of the Association.

Commencing with the first annual meeting of the Association, the Board of Directors shall consist of any uneven number of not fewer than five (5) nor more than nine (9) members who shall be elected by the members of the Association. The number of directors shall be determined by a vote of the members at the first annual meeting of the members and the number of directors may be changed by a vote of the members at any subsequent annual meeting of the members; provided, however, that (a) the limitations of this Section shall continue to apply; and (b) no such change shall operate to curtail or extend the term of any incumbent director.

Section 2. Term of Office. At the first annual meeting, the members shall elect three (3) directors for a term of one (1) year, each. At the second annual meeting, the members shall elect one (1) director for a term of one (1) year, and two (2) directors for a term of two (2) years and at least two (2) directors for a ten of three (3) years. At each annual meeting thereafter, the members shall elect a director to each vacancy for a ten of three (3) years. Those persons receiving the

largest number of votes shall be elected to the longest terms.

Section 3. Removal. After the first annual meeting of the members, any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. Prior to the first annual meeting of the members, any director may be removed from the Board, with or without cause, by the Declarant. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. No Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his/her duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of such directors. Such approval shall be filed with the minutes of the proceedings of the Board of Directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE VI

### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors commencing with the first annual meeting of the members, shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Cumulative voting is not permitted.

## ARTICLE VII

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal *year*. Notice of regular meetings of

the Board of Directors shall be given to each director, personally or by mail, telephone or telegraph, at least six (6) days prior to the date named for such meeting.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of any two (2) of the directors.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Rights of Mortgagees. Any institutional mortgagee of any Lot who desires notice of the regular and special meetings of the Board of Directors shall notify the Secretary to that effect by Registered Mail — Return Receipt Requested. Any such notice shall contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the regular and special meetings of the Board of Directors should be addressed. The Secretary of the Association shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each regular or special meeting of the Board of Directors to each institutional mortgagee, in the same manner, and subject to the same requirements and limitations, as are otherwise provided in this Article for notice to the members of the Board of Directors. Any such institutional mortgagee shall be entitled to designate a representative to attend any regular or special meeting of the Board of Directors and such representatives may participate in the discussion at any such meeting and may, upon request made to the Chairman in advance of the meeting, address the members of the Board of Directors present at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Board of Directors upon request made in writing to the Secretary.

Section 5. Fidelity Bonds. The Board of Directors shall require that all officers, directors and employees of the Association regularly handling or otherwise responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty. The premiums on such bonds or insurance shall be paid by the Association.

## ARTICLE VIII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. Board of Directors shall have the power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the Common Areas and recreational

facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor, or such other employees as deemed necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by twenty-five percent (25%) of the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or cause an appropriate officer to issue, upon request by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained;

(h) otherwise perform or cause to be performed the functions and obligations of the Board and the Association as provided for in the Declaration and Articles of Incorporation and these By—Laws.

Section 3. Management Agent. The Board of Directors may employ for the Association a professional management agent or manager (the “Management Agent”) at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. Any management agreement entered into by the Association shall provide, *inter alia*, that such agreement may be terminated with or without cause by either party without penalty or charge upon thirty (30) days’ written notice thereof to the other party. The ten of any such management agreement shall not exceed one year; provided, however, that the ten of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

If the standards and regulations of FNMA and/or FHLMC prohibit self-management by the Association and FNMA and/or FHLMC holds an interest in a first mortgage or deed of trust against any of the Lots, then no such self—management shall be undertaken by the Association, without the prior written consent and approval of all of the holders of the first mortgages of record on the Lots.

Provided that any Lot subject to these By-Laws is then encumbered by a deed of trust or mortgage which is insured by the Federal Housing Administration or guaranteed by the Veterans Administration, and, provided, further, that FHA and/or VA standards and regulations prohibit self—management of the Association, then no such self—management shall be undertaken by the Association without the prior written consent and approval of FHA or VA, as the circumstances may require.

## ARTICLE IX

### LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 1. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer and director of the Association against any and all expenses, including counsel fees, reasonably incurred by or imposed upon an officer or director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Association) to which he may be made a party by reason of being or having been an officer or director of the Association, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors of the Association shall not be liable to the members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad

faith. The officers and directors of the Corporation shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association or former officer or director of the Association may be entitled.

## ARTICLE X

### COMMITTEES

The Association may appoint an Architectural and Environmental Review Committee, as provided in the Declaration, and shall appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

Section 1. Insurance. The Board of Directors of the Association shall obtain and maintain, to the extent reasonably available, at least the following:

(a) casualty or physical damage insurance in an amount equal to the full replacement value (i.e., 100% “replacement cost” exclusive of land, foundation and excavation) of the common areas and community facilities (including all building service equipment and the like) with an “Agreed Amount Endorsement” or its equivalent, a “Demolition Endorsement” or its equivalent, and “Increased Cost of Construction Endorsement” or its equivalent and a “Contingent Liability from Operation of Building Laws Endorsement” or its equivalent, without deduction or allowance for depreciation, as determined annually by the Board of Directors with the assistance of the insurance company affording such coverage, such coverage to afford protection against at least:

(i) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and

(ii) such other risks as shall customarily be covered by the standard “all—risk” endorsement and such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, boiler and machinery explosion or damage, and such other insurance as the Board of Directors *may* from time to time determine; and

(b) A comprehensive policy of public liability insurance with a “Severability of Interest Endorsement” or its equivalent in such amount and in such forms as may be considered appropriate by the Board of Directors (but not less than One Million and No/100 Dollars (\$1,000,000.00) covering all claims for bodily injuries and/or property damage arising out of a single occurrence including, but not limited to, water damage liability, legal liability, hired automobile liability, non—owned automobile liability, liability for property of others and, if

applicable, garage keeper's liability, host liquor liability, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including any and all other liability incident to the ownership and use of the common areas and community facilities or any portion thereof; and

(c) workmen's compensation insurance to the extent necessary to comply with any applicable law; and

(d) a "Directors and Officers Liability Policy", or its equivalent, affording protection for the officers and directors of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such officer or director shall have been made a party by reason of his services as such; and

(e) such other policies of insurance, including insurance for other risks of a similar or dissimilar nature and fidelity coverage as required by these By—Laws, as are or shall hereafter be considered appropriate by the Board of Directors.

Section 2. Fidelity Bonds. The Board of Directors shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers and directors of the Association, trustees and volunteers for the Association and such employees and agents of the Association who handle or are responsible for the handling of funds of the Association, Such fidelity coverage shall meet at least the following requirements:

(a) all such fidelity bonds and policies of insurance shall name the Association as obliges or named insured, as the circumstances may require; and

(b) all such fidelity bonds and policies of insurance shall contain waivers of any defense based upon the exclusion of volunteers and other persons who serve without compensation from any definition of "employee" or similar expression.

(c) all such fidelity bonds and insurance shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to any and all obligees and insureds named thereon and to any mortgagee of any Lot who requests such notice in writing.

Section 3. Limitations. Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions to the extent reasonably available:

(a) all policies shall be written or reinsured with a company or companies licensed and/or authorized to do business in the State where the project is located and holding a general policyholder's rating of Class B or better and a current financial rating of Class VI or better in the current edition of Best's Insurance Reports and

(b) exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors of the Association, or its authorized representative; and

(c) in no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the owners of the Lots or their mortgagees, as herein permitted, and any “no other insurance” or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration; and

(d) such policies shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the building, whether or not within the control or knowledge of the Board of Directors and shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Board of Directors or any members of the Association, or any of their respective agents, employees, tenants, mortgagees or invitees or by reason of any act of neglect or negligence on the part of any of them; and

(e) all policies shall provide that such policies may not be surrendered, cancelled or substantially modified (including cancellation for non—payment of premium) without at least thirty (30) days prior written notice to any and all insureds named therein, including any mortgagee of any Lot who requests such notice in writing; and

(f) all policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors or when in conflict with the provisions of these By-Laws or the provisions of the Declaration; and

(g) all policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors, the members of the Association and their respective agents, employees or tenants, and of any defenses based upon coinsurance or invalidity arising from the acts of the insured.

## ARTICLE XII

### CASUALTY DAMAGE - RECONSTRUCTION OR REPAIR

Section 1. Use of insurance Proceeds. In the event of damage or destruction to the common areas and community facilities by fire, or other casualty, the same shall be promptly repaired, replaced or reconstructed in substantial conformity with the original plans and specifications for the common areas and community facilities with the proceeds of insurance available for that purpose, if any. The Association shall not use the proceeds of casualty insurance received as a result of damage or destruction of the common areas and community facilities for purposes other than the repair, replacement or reconstruction of the common areas and community facilities without the prior written consent and approval of the holders of all first mortgages of record on the Lots.

Section 2, Proceeds Insufficient. In the event that the proceeds of insurance are not sufficient to repair damage or destruction of the common areas and community facilities caused by fire or

other casualty, or in the event such damage or destruction is caused by any casualty not insured against, then and in either of those events, upon resolution of the Board of Directors, the repair, replacement or reconstruction of the damage shall be accomplished promptly by the Association at its common expense.

## ARTICLE XIII

### FISCAL MANAGEMENT

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association which shall begin at the date of recordation of the Declaration among the Land Records for Montgomery County, Maryland. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should the practice of the Association subsequently dictate.

Section 2. Principal Office - Change of Same. The principal office of the Association shall be as set forth in Article I of these By—Laws. The Board of Directors, by appropriate resolution, shall have the authority to change the location of the principal office of the Association from time to time.

Section 3. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, or receipts and of the expenditures and other transactions of the Association and its administration and shall specify the maintenance and repair expenses of the common areas and community facilities, services required or provided with respect to the same and any other expenses incurred by the Association. The amount of any assessment or portion of any assessment, required for payment of any capital expenditures or reserves of the Association shall be credited upon the books of the Association to the “Paid-in-Surplus” account as a capital contribution by the members.

Section 4. Financial Reports. The Association shall furnish the members and any mortgagees requesting the same with an annual financial statement, including the income and disbursements of the Association, within one hundred eighty (180) days following the end of each fiscal year.

Section 5. Inspection of Books. The books and accounts of the Association, vouchers accrediting the entries made thereupon, and all other records maintained by the Association, shall be available for examination by the members and their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any Lot and its duly authorized agents or attorneys, at some place designated by the Board of Directors, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice.

Section 6. Seal. The Board of Directors may provide a suitable corporate seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

## ARTICLE XIV

### AMENDMENT

Section 1. Amendments. Subject to the other limitations set forth in these By-Laws, these By-Laws may be amended by the affirmative vote Of members representing two—thirds (2/3) of the then members of record at any meeting of the members duly called for such purpose in accordance with the provisions and requirements of these By—Laws.

Section 2. Proposal of Amendments. Amendments to these By—Laws may be proposed by the Board of Directors of the Association or by petition signed by at least twenty-five percent (25%) of the total votes of the members, which petition shall be delivered to the Secretary. A description of any proposed amendment shall accompany the notice of any annual or special meeting of the members at which such proposed amendment is to be considered and voted upon.

Section 3. Amendments by Declarant. Notwithstanding the foregoing, these By—Laws may be amended by the Declarant, without the vote of the members, provided such amendment is accomplished solely for the purpose of causing these By-Laws to conform to the requirements of VA, FHA, FNMA or FHLMC and does not adversely affect the property rights of any member.

## ARTICLE XV

### MORTGAGES - NOTICE - OTHER RIGHTS OP MORTGAGEES - PEA/VA

Section 1. Notice to Board of Directors. Any owner of any Lot who mortgages and/or refinances such Lot shall promptly notify the Board of Directors of the name and address of his mortgagee and, if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain a suitable roster pertaining to mortgages concerning which it receives such notice.

Section 2. Consents. Any other provision of these By—Laws or of the Declaration to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the holders of at least two— thirds (2/3) of the first mortgages of record on the lots:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights—of—way, easements and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(c) modify or amend any material or substantive provision of the Declaration or these By-Laws.

Section 3. casualty Losses. In the event of substantial damage or destruction to any part of the common areas and community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the lots. No provision of these By—Laws shall entitle any member of the Association to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such member of any insurance proceeds.

Section 4. condemnation or Eminent Domain. In the event any portion of the common areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the Lots. No provision of these By—Laws shall entitle any member of the Association to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such member of the proceeds of any condemnation award or settlement.

Section 5. FHA/VA. Provided that any Lot in the project is then encumbered by a deed of trust or mortgage which is insured by the Federal Housing Administration or guaranteed by the Veterans Administration and, provided further, that there are then Class B memberships of the Association outstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Federal Housing Administration and the Veterans Administration, as the circumstances may require:

- (a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights—of—way, easements and the like for public utilities and cable television or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or
- (b) abandon or terminate the Declaration; or
- (c) modify or amend any provision of the Declaration or these By-Laws.

Section 6. Rights of Maryland—National Capital Park & Planning Commission. Any other provision of these By-Laws to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Maryland-National Capital Park & Planning Commission, which consent shall not be unreasonably withheld or delayed.

- (a) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights—of—way, easements and the like for public utilities and cable television or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(c) modify the method of determining and collecting common expense assessments or other assessments as provided for in the Declaration; or

(d) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association; or

(e) modify or amend any material or substantive provision of the Declaration, Articles of Incorporation or these By-Laws.

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The Maryland National Capital Park & Planning Commission shall have the right to bring an action against the Association for any legal or equitable relief necessary to enforce any of the rights or powers granted to the Maryland—National Capital Park & Planning Commission in this Section.

## ARTICLE XVI

### INTERPRETATION – MISCELLANEOUS

Section 1. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles of Incorporation of the Association. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these By—Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between these By—Laws and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 2. Notices. Unless another type of notice is herein elsewhere specifically provided for, any and all notices called for in these By-Laws shall be given in writing.

Section 3. severability. In the event any provision or provisions of these By—Laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 4. waiver. No restriction, condition, obligation or provisions of these By—Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 5. Captions. The captions contained in these By—Laws are for convenience only and are not a part of these By—Laws and are not intended in any way to limit or enlarge the terms and provisions of these By—Laws or to aid in the construction thereof.

Section 6. Gender, etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include

all genders.

IN WITNESS WHEREOF, we, being all of the Directors of the ORCHARD KNOLLS HOMEOWNERS ASSOCIATION, INC., have hereunto set our hands this 30th day of June, 1989.

WITNESS: (Sandra J. Muikey)

Thomas E. Marshall, Director

David D. Flanagan, Director

James L. Perry, Director