



CRYSTAL BEACH TENNIS AND YACHT CLUB

AMENDED AND CONSOLIDATED BY-LAW

ADOPTED BY THE MEMBERS ON AUGUST 17, 2024

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AMENDED AND CONSOLIDATED BY-LAW¹ (2024)
OF
CRYSTAL BEACH TENNIS & YACHT CLUB

A By-law relating generally to the transaction of the business and affairs of Crystal Beach Tennis & Yacht Club.

ARTICLE I
NAME AND LOCATION

Section 1.01 **Name and Location**

The name and location of the non-share Capital Corporation is the Crystal Beach Tennis & Yacht Club, hereinafter referred to as the “Club.” The principal office of the Club shall be as designated by the Board of Directors of the Club, from time to time by resolution.

ARTICLE II
DEFINITIONS

As used in this By-law, the following terms shall be defined as:

Section 2.01 **Act**

The Corporations Act, R.S.O. 1990 Chapter C.

Section 2.02 **Assessments**

Maintenance Assessments and Special Assessments, as those terms are defined in Section 8.07.

Section 2.03 **Beach**

The lands described as being Blocks 182 and 185 on Plan 59M-208 in the Land Registry Office for the Land Titles Division of Niagara South, said land, being in the Town of Fort Erie, Ontario.

Section 2.04 **Builder**

Any person, partnership, corporation or other entity which undertakes the construction of a unit on a Lot.

Section 2.05 **Certificate of Compliance**

The document issued by the Developer or the Club with respect to a Lot or other portion of the Property acknowledging that the initial development thereof or improvement thereto has been completed to the satisfaction of the Developer or the Club in accordance with the requirement of the By-law for issuance of such document.

Section 2.06 **Member**

Every Lot Owner is a Member.

¹ This Amended and Consolidated By-law includes and reflects Amended By-law No. 1, dated August 19, 2017; By-law No. 3, dated February 27, 2021; and By-law No. 4, dated August 17, 2022.

Section 2.07 Club

The Crystal Beach Tennis & Yacht Club, a not-for-profit corporation incorporated by Letters Patent under the Corporations Act (Ontario).

Section 2.08 Club Property

All land, improvements and other properties heretofore or hereafter owned by the Club.

Section 2.09 Improvement

Any thing or device (other than trees and shrubbery less than two feet (2') high), the placement of which upon the Property affects the appearance of the Property including, by way of illustration and not of limitation, any building, garage, porch, shed, greenhouse, bathhouse, coop or cage, covered or uncovered patio, swimming pool, clothes line, antenna, fence, curbing, paving, wall, trees and shrubbery more than two feet (2') high, signboard and any temporary or permanent living quarters (including a mobile home).

Section 2.10 Lot

- (i) Any of Lots nos. 1 through 170 on Plan 59M-208 or parts thereof; and
- (ii) any block, lot, or parcel of land on Plan 59M-208 or any other filed plan, the Owner of which block, lot or parcel has been admitted to membership in the Club pursuant to Section 3.01 of this By-law.

Section 2.11 Lot Owner

The registered owner, whether one or more persons or entities, of the fee simple interest in any Lot, whether or not such holder actually resides on such Lot.

Section 2.12 Meeting

A Meeting of the Members (Annual or Special Meeting) held in person, by telephonic or by electronic means, or by a hybrid thereof, in accordance with the conditions set forth in this By-law, and a member who, through those means, votes at the Meeting or establishes a communication link is deemed for the purposes of this By-law to be present at the Meeting.

Section 2.13 Member

A Lot Owner or other individual or entity voted into Membership pursuant to Section 3.01.

Section 2.14 Owner

See definition of "Lot Owner" above.

Section 2.15 Plan 59M-208

Registered Plan 59M-208, registered in the Land Registry Office for Land Titles Division of Niagara South.

Section 2.16 Property

All of the Lots and Club Property.

Section 2.17 Proxy

Every Member, including a Member that is a corporation, entitled to vote at a Meeting of Members may by means of a telephonic, electronic, or paper proxy appoint a person, who need not be a Member, as the Member's nominee to attend and act at the Meeting in the manner, to the extent, and with the power conferred by the proxy.

Section 2.18 Registered Restrictions

The document or documents of restrictive covenants or conditions registered on Club Property and Lots in the Land Registry Office for the Registry Division of Niagara south as the same may from time to time be supplemented, extended, or amended in the manner provided for herein.

Section 2.19 Seawall

The concrete abutment and lands on which it is located on Block 187 in Plan 59M-208.

Section 2.20 Unit

Any dwelling unit on any Lot (as evidenced by issuance of a Letter of Occupancy issued by the Town of Fort Erie) or any dwelling unit on any Lot that has been occupied as a residence.

ARTICLE III

MEMBERS AND RIGHTS AND OBLIGATIONS OF MEMBERS

Section 3.01 Membership in the Club

The Members in the Club shall be:

- (i) Lot and Block Owners, with the exception of Blocks 174, 187, 188, 189, 190, and 201 contained within Plan 59M-208, and
- (ii) the Owners of other property who are admitted to Membership in the Club upon the affirmation vote of 66 2/3% of the Members.

All Lot and block Owners shall, upon becoming such, be deemed automatically to have become Members, and there shall be no other qualifications for membership. Membership shall be appurtenant to and shall not be separated from the ownership of a Lot or Block.

Section 3.02 Right to Assign Membership

Membership in the Club shall not be transferable or assignable, except as automatically transferred with the transfer of title to a Lot.

Section 3.03 Voting Rights

Except as may otherwise be required by statute or as may be otherwise set forth in this By-law, each Member in good standing shall be entitled to vote and shall have one (1) vote for each Lot owned by such Member. Any Member who is in violation of this By-law, as determined by the Board of Directors of the Club, shall not be entitled to vote during any period in which such violation continues. Any Member who has any Assessments outstanding for more than thirty (30) days is not in good standing and has no right to vote.

Section 3.04 Voting Regulations

The Board of Directors of the Club may make such regulations, consistent with the terms of the Certificate of Incorporation, this By-law, and the Law of the Province of Ontario, as it deems advisable for any Meeting of the Members, in regard to proof of membership in the Club, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures, and such other matters concerning the conduct of Meetings and voting as it shall deem appropriate.

Section 3.05 Corporate or Partnership Members

Any votes of a corporate or partnership Member may be cast by an appropriate officer of such corporation or partnership. Satisfactory proof of the identity of the officers of a corporation or partnership must be filed at the address of the Club's designated property management company at least thirty (30) days prior to the date of the Meeting at which the corporate or partnership Member wishes to cast a vote, and the Board of Directors shall have the right to determine who is authorized to vote for the corporation or partnership.

Section 3.06 Joint or Common Ownership

If a Lot is owned by more than one person, as joint tenants or as tenants in common, the persons owning such Lot shall attempt to reach agreement as to the matter voted upon and cast their vote for their Lot. If no agreement is reached, each of such persons may exercise the portion of the vote for such Lot that is equivalent to such person's portion of ownership in such Lot. If all persons who own the Lot are not present to cast their vote, or do not otherwise cast their vote, the person or persons who cast the vote for such Lot shall be deemed to be acting on behalf of all of the Lot's Owners, unless the Club has been advised otherwise in writing by the Owner not present or otherwise voting.

Section 3.07 Proxy Voting

On any matter submitted to the Members for vote, any Member entitled to vote may cast a vote without attending the Meeting in question by filing a written statement or "proxy" with the Secretary of the Club prior to the Meeting in question, which proxy shall appoint a person, who need not be a Member, as the Member's nominee to attend and act at the Meeting in the manner, to the extent, and with the power conferred by the proxy.

Section 3.08 Obligation of Each Member to Maintain Lot and Improvements

Each Member shall keep such Member's Lot and all Improvements thereon in compliance with all applicable laws and ordinances and with the provisions of this By-law and of any Rules and Regulations of the Club adopted pursuant to this By-law,

- (i) to the extent not undertaken by the Club, and in good order and repair, including, but not limited to, seeding, watering, and mowing all lawns, pruning and cutting all trees and shrubbery, and
- (ii) painting or other appropriate external care of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management.

Section 3.09 Responsibility for Tenants

Any lease of a Lot shall be in writing, shall be for not less than the entire Lot, and shall provide that the tenant shall comply in all respects with the terms of this By-law and the Rules and Regulations of the Club. If the Board of Directors determines that a tenant is in violation of this By-law or the Rules and Regulations, the Board of Directors shall so notify the Lot Owner in writing. If the violation is not cured or eviction proceedings have not commenced against the tenant within fourteen (14) days after the Owner has received notice of such violation, the Board of Directors may pursue any remedies which it may have pursuant to this By-law.

ARTICLE IV MEETING OF MEMBERS

Section 4.01 Annual Meetings

There shall be an Annual Meeting of Members held not later than fifteen months after the holding of the last preceding Annual Meeting, at such time and at such place convenient to the members as shall be designated by the Board of Directors. The Annual Meeting shall not be held on a legal holiday. The purpose of the Annual Meeting shall be to elect Directors and for the transaction of such other business as may be listed on the agenda. No voting, other than for approval of previous Minutes and the election of Directors, shall be held unless clearly set out on the agenda and notice of the Meeting. Failure to hold an Annual Meeting at the designated time shall not, however, invalidate the Club's existence or affect otherwise valid Club acts.

Section 4.02 Special Meetings

A Special Meeting of the Members may be called at any time by the President, by the Board of Directors, or at the request of Members owning not less than the lesser of 10% of the Lots owned by Members or thirty (30) Lots.

Section 4.03 Notice of Meetings

Not less than ten (10) days or more than sixty (60) days before the date of any Annual or Special Meeting, the Club shall give to each Member entitled to vote at such Meeting, written or printed notice stating the time and place of the Meeting, and, in the case of a Special Meeting, indicating that it is being issued by or at the direction of the person or persons calling the Meeting and the purpose or purposes for which the Meeting is being called. Such notice shall be delivered either by mail, electronically, or by presenting it to the Members personally. If mailed, such notice shall be deemed to be given when deposited in the United States or Canadian mail, postage prepaid, addressed to the Member at the Member's permanent address as it appears on the records of the Club. If the notice for a Special Meeting is not given within twenty (20) days after a valid request for such Special Meeting was received by the Board of Directors, the person requesting such Meeting may fix the date, time, and place of such Meeting and give notice thereof to all Members. Notwithstanding the foregoing provision, a waiver of notice in writing, signed by person or persons entitled to such notice, whether before or after such Meeting is held, or actual attendance at the Meeting in person without protesting at or prior to the commencement of the Meeting, shall be deemed

equivalent to the giving of such notice to such persons. Any Meeting of Members, Annual or Special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned Meeting other than by announcement at the Meeting at which the adjournment is taken. The accidental omission to give any notice not affecting the substance thereof shall not invalidate any action taken at any Meeting held pursuant to such notice or otherwise founded therein.

Section 4.04 Quorum

Except as may otherwise be provided in this By-law, the presence in person or by proxy of Members having 20% of the total authorized votes of the Members shall constitute a quorum at any Meeting of Members. If any Meeting of Members cannot be held because a quorum is not present, a majority of the Members who are present at such Meeting, either in person or by proxy, may, without notice other than announcement to those physically present, adjourn the Meeting to a time not less than forty-eight (48) hours from the time the original Meeting was called, and from time to time thereafter, until a quorum shall be present in person or by proxy. The quorum required in each reconvened Meeting shall be one-half (1/2) of the quorum required for the previous Meeting. The act of two-thirds (2/3) of the Members present at a Meeting at which a quorum was present shall be the act of the Members unless the act of a greater or lesser number is required by law, or by the Letters Patent of the Club, this By-law, or any Registered Restriction.

Section 4.05 Waiver and Consent

Wherever the vote of the membership is required by law, the Letters Patent of the Club, the Registered Restrictions, or this By-law, to be taken in connection with any action of the Club, the Meeting and vote of the membership may be dispensed with if all Members who would have been entitled to vote upon the action if such Meeting were held, shall consent in writing to such action being taken.

Section 4.06 Order of Business at Annual Meeting

The order of business at all Annual Meetings of Members of the Club shall be set by the Board of Directors and shall include but not be limited to approving the minutes of preceding Meetings, reports of officers and committees as requested by the Board, election of Directors, unfinished business and new business.

Section 4.07 Persons Entitled to be Present

The only persons entitled to attend a Meeting of Members shall be the Lot Owners whose names and addresses for service were provided to the Club thirty (30) days prior to the date of the Meeting and are entitled to vote, their proxies, the auditor, and others who, although not entitled to vote, are entitled or required under the provisions of this By-law to be present at the Meeting. Any other person may be admitted only by invitation of the Chairperson of the Meeting or with the consent of the Members in attendance at the Meeting.

Section 4.08 Loss of Right to Vote

A Lot Owner is not entitled to vote at any Meeting if any Assessments payable in respect of the Lot have been in arrears for thirty (30) days or more at the time of the Meeting. The Lot

Owner that is in arrears of the Assessments payable in respect of the Lot may tender payment in full, together with interest as set out in this By-law and such other reasonable costs as the Club may be entitled to in respect of such arrears, at any time prior to the commencement of such Meeting provided that such payment shall be in cash, certified cheque, or by bank draft payable to the Club and dated on or before the same date as the Meeting, provided that the Chairperson of the Meeting shall have the right, exercising absolute discretion, to allow payment of such arrears by ordinary cheque or other suitable payment method.

Section 4.09 Conduct of Meetings

- (a) At any Annual or Special Meeting, the President of the Club, or failing the President, the Vice-President, or failing the Vice-President, some person elected at the Meeting, shall act as Chairperson of the Meeting, provided that the Chairperson may, whenever the Chairperson believes in their sole discretion, it is appropriate in the circumstances to do so, appoint the Club's Manager or Solicitor to chair all or part of the Meeting of the Owners. The Secretary of the Club shall act as Secretary for the Meeting or, failing the Secretary, the Chairperson shall appoint a Secretary for the Meeting.
- (b) Unless the By-laws of the Club provide otherwise, any question as to: the calling of the Meeting; the right to vote at a Meeting; the validity of proxies presented at the Meeting; the method used to vote or the validity of any vote held at a Meeting; or the Rules of Order for a Meeting shall be decided by the Chairperson;
- (c) In rendering a decision, the Chairperson may make reference to Wainberg's Company Meetings including Rules of Order and/or Wainberg's Society Meeting including Rules of Order, for assistance in determining any question(s) or procedure(s) as to the rules of order for a Meeting.

Section 4.10 Method of Voting

Voting procedures shall provide Members with the means to vote in advance of a Meeting, in person at a Meeting, or by proxy

Any question raised at an Annual or Special Meeting shall be decided by a show of hands, electronically or in person; or by a telephonic, electronic, or paper ballot or proxy, unless a recorded vote is required by the Chairperson of the Meeting or is demanded by a Lot Owner present in person or by way of proxy and entitled to vote, and is demanded immediately before or promptly after the vote. Unless a recorded vote is so required or demanded, a declaration by the Chairperson of the Meeting that the vote upon the question has been carried, or carried by a particular majority, or not carried, is prima facie proof of the fact with proof of number of proportional votes recorded in favour of or against such question.

ARTICLE V BOARD OF DIRECTORS

Section 5.01 Number and Qualifications of Directors

The business and affairs of the Club shall be managed by the Board of Directors. The Board of Directors shall be comprised of five (5) Lot Owners, eighteen years of age or older, elected

by the Members at an Annual or Special Meeting. Only one Owner from a given Lot may serve on the Board at any given time.

Section 5.02 Election and Term

Except as otherwise prescribed by this By-law, Directors are elected for three (3)-year terms.

Directors may not serve more than three (3) consecutive terms. After serving three (3) terms, a Director must take one (1) year off prior to re-running.

Director elections shall be conducted as follows:

- (a) If the number of candidates nominated for the position of Director is equal to the number of positions available at a Meeting, and nominations have been properly closed, the Chairperson may declare that the candidates so nominated shall be elected directly by acclamation. If those elected by acclamation are for different terms then the Board of Directors will, at their first Board meeting following the Annual General Meeting, decide which terms each Director will serve.
- (b) If there are more candidates nominated for the position of Director than there are vacancies to be filled at any Meeting, the vote for the election of Directors shall be made by ballot or by proxy only in the following manner:
 - (i) a ballot, either blank or containing the names of nominees, shall be given to every Lot Owner present and entitled to vote;
 - (ii) if it is a blank ballot, those persons entitled to vote shall write the names of the candidates of their choice on the paper or, if it is a printed ballot, they shall mark an "x", check mark or make some other clear indication of their choice opposite the candidate(s) of their choice. If it is a blank ballot, the persons entitled to vote shall not write the name of a candidate on such ballot more than once;
 - (iii) if a valid proxy is submitted at a Meeting where Directors are to be elected but does not contain the names of the candidates, it may be used for the election of any Director, including those that may be nominated from the floor, and the ballot may be completed by the proxy holder.
 - (iv) the Board of Directors may appoint a Nominating Committee who shall present a slate of nominees to the Owners to be sent along with the notice calling the Annual Meeting. Additional nominations from the floor can be made by Members.
 - (v) Members of the Board of Directors shall hold office until their successors have been elected. Tie votes shall be decided by a run-off election unless all parties tying agree to a drawing of lots. Voting shall be by secret written ballot. The person receiving the most votes shall be elected. Cumulative voting is not permitted.

Section 5.03 Vacancies

Vacancies on the Board of Directors caused by resignation or by removal by the Members or by the other members of the Board of Directors as provided in Section 5.04 below shall be filled as follows:

- (a) the vacancy may be filled by a person selected by the remaining members of the Board of Directors. Such person shall serve until the next Annual Meeting, at which time the Members shall elect a successor to serve until the expiration of the term of the Director whose vacancy such person was elected to fulfill or for a new term, if such term expires as of such election;
- (b) the Board of Directors may call a Meeting in order to elect a person to the Board to fulfill the balance of the term of the previous Director or;
- (c) the Board of Directors may leave the position open until the next Annual Meeting.

Section 5.04 Removal of Members of Board of Directors

A Director may be removed before the expiration of the Director's term by a resolution passed by at least two-thirds of the votes cast at a Meeting of which notice specifying the intention to pass such resolution has been given. The Members may elect any person qualified to be a member of the Board under this By-law, by a majority of the votes cast at the Meeting, for the remainder of the term of the Director removed.

Section 5.05 No Compensation

Directors shall not receive any compensation or salary for their services. Any Director may be reimbursed for actual expenses incurred in the performance of such Director's duties. A Director who serves the Club in any other capacity, however, may receive compensation therefor.

Section 5.06 Organizational Meeting

Immediately after each Annual Meeting of Members, the newly elected Directors and those Directors whose terms hold over shall hold an Organizational Meeting for the purpose of electing Officers and transacting any other business. Notice of such meeting of Directors need not be given.

Section 5.07 Regular Meetings

Regular meetings of the Board of Directors shall be held at such places, inside or outside of Ontario, and at such times, convenient to the Directors as may be designated from time to time by resolution of the Board of Directors. Such meetings shall be on not less than five (5) days' written notice, which notice may be waived by all Directors. Directors need not be present at the location of the meeting and meetings may be held by telephonic or by electronic means, or by a hybrid thereof, as determined by the Directors.

Section 5.08 Special Meetings

Special meetings of the Board of Directors may be called at any time at the request of the President or any two (2) Directors after not less than five (5) days' notice to each Director, which notice shall state the time, date, and purpose of such meeting. Such notice may be given in any manner that the Director receiving it may have a reasonable opportunity to attend the meeting. The person or persons authorized to call such special meeting of the Board may fix any location and format convenient to the Directors. The Directors may waive notice of any special meeting. The attendance of a Director at any special meeting shall constitute a waiver of notice of such special meeting.

Section 5.09 Meeting to be Open to Members

The Board of Directors shall determine from time to time, which portion of their meetings shall be open to all Members. The subjects of “in-camera” meetings (i.e., those closed to the Members) shall be limited to legal matters, personnel issues, proposed land acquisition, and Board of Director Organizational Meetings, and Member Meeting planning sessions.

Section 5.10 Quorum and Voting

A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at all meetings of the Board of Directors. Under no circumstances shall quorum be fewer than three (3) Directors. Except in cases in which it is provided otherwise by statute or by this By-law, a vote of a majority of such quorum at a duly constituted meeting shall be sufficient to elect and pass any measure. In the absence of a quorum, the Directors present may adjourn the meeting from time to time by majority vote of those Directors present, and without further notice, until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted at the meeting which might have been transacted as originally called.

Section 5.11 Rules and Regulations

The Board of Directors may establish such Rules and Regulations consistent with this By-law, the Letters Patent, and the Registered Restrictions as they deem appropriate for the governance of its action.

Section 5.12 Powers and Duties

Every Director, in exercising their powers and discharging their duties to the Club, shall act honestly and in good faith with a view to the best interests of the Club, and exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

The Board of Directors may exercise all the powers of the Club, except such as are conferred upon or reserved to the Members by statute or by the Letters Patent, Registered Restrictions, or this By-law. The powers, duties, and authority of the Board of Directors shall specifically include, but shall not be limited to the following:

- (a) Exercise for the Club all powers, duties and authority vested in or delegated to the Club and not reserved to the Members by other provisions of this By-law, the Registered Restrictions, or the Letters Patent;
- (b) Determine, levy, and collect the Assessments and other charges as provided for in this By-law for (i) the maintenance, care, and preservation and operation of the Club Property, and (ii) the services which the Club provides to the Members;
- (c) Procure and maintain as it is obligated to obtain by this By-law or as it otherwise deems appropriate (i) adequate liability insurance covering the Club, its Directors, Officers, Agents, and employees, (ii) adequate hazard insurance on the Club’s Property, and (iii) any other insurance, e.g., Officers’ and Director’s liability insurance, workers’ compensation insurance, a fidelity bond covering those handling Club funds, and umbrella catastrophe coverage;

- (d) Repair, restore, or alter the Club Property after damage or destruction by fire or other casualty or as a result of expropriation;
- (e) Adopt and publish Rules and Regulations governing the use of the Property, and the personal conduct of the Members and their guests thereon, and establish penalties for infractions thereof;
- (f) Collect delinquent Assessments by suit or otherwise, to abate nuisances and to enjoin, or seek damages from or impose penalties on Members for violations of the provisions of this By-law or of any Registered Restrictions or of any Rules and Regulations of the Club;
- (g) Pay all taxes owing by the Club and file the required tax returns;
- (h) Purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer, and dispose of Property of any description or any interest therein;
- (i) Keep a complete record of its actions and the corporate affairs of the Club and present a statement thereof to the Members at the Annual Meeting of Members, or at any Special Meeting of Members when such a statement is requested in writing by not less than 20% of the Members;
- (j) Issue, or cause to be issued, as provided in this By-law,
 - (i) "Assessment Certificates" setting for the status of payment of assessments for any Lot,
 - (ii) Architectural approvals for additions, modifications, or alterations to improvements on Lots, and
 - (iii) "Architectural Certificates" setting forth whether or not the improvements on a Lot comply with the applicable provisions of this By-law or of any Registered Restrictions;
- (k) Supervise all Officers, agents, employees, and service firms of the Club and see that their duties are properly performed;
- (l) Maintain, repair, and replace as necessary all Club Property or other property the Club is obligated to maintain under this By-law, the Registered Restrictions, or otherwise, and the landscaping and Improvements on such property, should a Lot Owner fail to perform required repair and maintenance;
- (m) Enter into contracts for supplies and services to the Club. Contracts extending beyond one year must have a termination clause providing sixty (60) days' written notice for termination;
- (n) Invest the Club's monies, including operational and reserve funds; borrow money as permitted by this By-law;
- (o) Employ a managing agent and such other persons or firms to perform such duties and services as the Board of Directors may authorize;
- (p) 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 meetings of the Board of Directors or from 50% or more of the regularly scheduled meetings of the Board of Directors in any calendar year;

- (q) Arrange for utility services to the Club Property and the Lots, to the extent such services are not otherwise directly available;
- (r) Settle, adjust, or refer to arbitration any claim or claims which may be made upon or which may be asserted on behalf of the Club;
- (s) Enforce the provisions of this By-law, the Registered Restrictions, and the Rules and Regulations of the Club; and
- (t) Exercise for the Club all powers, duties and authority vested in or delegated to the Club and not reserved to the Lot Owners by other provisions of this By-law or the Letters Patent or any Registered Restrictions.

ARTICLE VI OFFICERS

Section 6.01 Officers

The Officers of the Club shall be the President, one or more Vice-President(s), (the number thereof to be determined by the Board of Directors), the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The President and any Vice-President(s) who succeeds to the office of President shall be members of the Board of Directors. Every Officer, in exercising their powers and discharging their duties to the Club, shall act honestly and in good faith with a view to the best interests of the Club, and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The Board of Directors may appoint such other Officers as it shall deem desirable, such Officers to have the authority and to perform the duties prescribed from time to time by the Board of Directors. No Officer of the Club shall receive compensation for services as an Officer.

Section 6.02 Election and Appointment of Officers

The elected Officers of the Club shall be elected annually by the Board of Directors at the Organizational Meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors. Appointed Officers shall be appointed at such times and shall hold their office for such terms as the Board of Directors shall determine from time to time.

Section 6.03 Term and Vacancies

Each elected Officer shall hold office until the next Organizational Meeting of the Board of Directors following the Annual Meeting of Members and until their successors are chosen and qualified, unless they shall sooner resign, or shall be removed or otherwise be disqualified to serve. The vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 6.04 Removal of Officers

Upon the affirmative vote of a majority of the members of the Board of Directors, any Officer may be removed, either with or without cause, and a successor to such office may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

Section 6.05 President

The President shall be the Chief Executive Officer, shall supervise the work of the other Officers, shall preside at all Meetings of Members, and of Directors, and shall perform such other duties and functions as may be assigned to them by the Board of Directors. The President may sign, in the name of the Club, any and all contracts or other instruments authorized by the Board of Directors or this By-law.

Section 6.06 Vice-President

The Vice-President shall perform such duties as are conferred upon them by this By-law or as may from time to time be assigned to them by the Board of Directors or the President. At the request of the President, or in the event of the absence or disability of the President, the Vice-President designated by the President (or in the absence of such designation, the Vice-President designated by the Board of Directors) shall perform all the duties of the President, and when so acting, shall have all the power of the President. The authority of the Vice-President to sign in the name of the Club all contracts, notes, and other instruments, shall be coordinated with like authority of the President.

Section 6.07 Secretary

The Secretary shall cause notices of all Meetings to be served as prescribed in this By-law, shall record the votes and keep the minutes of all Meetings, shall have charge of the seal, if any, and corporate records of the Club, shall keep records of the Lot Owners of the Club and the mortgagees of the Lots, and shall perform such other duties as are assigned to them by the President or the Board of Directors. Any Assistant Secretary shall be capable of performing all of the duties of the Secretary.

Section 6.08 Treasurer

The Treasurer shall have general supervision of all finances; shall receive and have charge of all money, bills, notes, documents, and similar property belonging to the Club, and shall do with the same as may from time to time be required by the Board of Directors. The Treasurer shall cause to be kept adequate and correct accounts of the business transactions of the Club, including accounts of its assets, liabilities, receipts, expenditures, profits and losses, together with such other account as may be required, and upon the expiration of their terms of office shall turn over to the successor Treasurer or to the Board of Directors all property, books, documents and money of the Club in their hands; and shall perform such other duties as from time to time may be assigned to them by the Board.

Section 6.09 Other Officers

The Board of Directors may appoint such assistant and subordinate Officers as it may deem desirable. Each such Officer shall hold office during the pleasure of the Board of Directors, and perform such duties as the Board may prescribe. The Board of Directors may, from time to time, authorize any Officer to appoint and remove subordinate Officers and to prescribe their authority and duties.

Section 6.10 Delegation of Authority and Duties; Control of Officers

In the absence of any Officer of the Club, or for any other reason the Board of Directors may deem sufficient, the Board may delegate the power or duties, or any of them, of such Officers, to any other Officer or to any Director or the managing agent. In addition, the Board of Directors is authorized generally to control the action of the Officers and to require the performance of duties in addition to those mentioned herein.

Section 6.11 Fidelity Bonds

The Board of Directors may require that all Officers and employees of the Club handling or responsible for Club funds furnish adequate fidelity bonds. The premiums on any such bonds shall be paid by the Club and shall be a common expense.

**ARTICLE VII
COMMITTEES**

Section 7.01 Executive Committee of Directors

The Board of Directors by resolution adopted by a majority of the Directors in office, may designate an executive committee, consisting of three (3) or more Directors, which committee, to the extent provided in the resolution, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Club, provided, however, that no such committee shall have the authority of the Board of Directors to approve an amendment to the Letters Patent, the Registered Restrictions, or this By-law. The Board of Directors may discontinue any such committee in its discretion.

All actions by any such committee shall be reported to the Board of Directors at its meeting next succeeding such actions. Such actions shall be subject to control, revision, and alteration by the Board of Directors, provided that no rights of any third parties shall be prejudiced by any such control, revision, or alteration.

Section 7.02 Committees of Members

Committee members shall be appointed and shall have such duties as the Board of Directors may determine from time to time, e.g., Grounds and Facilities Committee, Finance Committee, Governance Committee, and Social Committee. Each Committee shall consist of a Chairperson and two (2) or more members and need not include a member of the Board of Directors.

Section 7.03 Rules and Records

Each Committee may adopt rules for its own governance not inconsistent with the terms of the resolution of the Board of Directors designating the Committee or with rules adopted by the Board of Directors. Each Committee shall keep such records and accounts of its proceedings and transactions as it deems appropriate.

ARTICLE VIII FINANCES, RECORDS, AND ASSESSMENTS

Section 8.01 Cheques

All cheques, drafts, and orders for the payment of money, notes, and other evidences of indebtedness, issued in the name of the Club shall, unless otherwise provided by resolution of the Board of Directors, be signed by the President or Treasurer and counter-signed by one Director of the Club, provided that the President or Treasurer and Director so signing are not the same person.

Section 8.02 Fiscal Year

The fiscal year of the Club shall be the twelve (12) calendar months ending February 28th of each year, unless otherwise provided by the Board of Directors.

Section 8.03 Annual Reports

There shall be a full and correct audit statement of the financial affairs of the Club, including a balance sheet and a financial statement of operation for the preceding fiscal year prepared by a chartered accountant to the effect that the financial statement presents fairly the financial position of the Club and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as specified therein. Such statement shall be distributed to all Members and to all mortgagees of Lots who have requested the same, promptly after the end of each fiscal year.

Section 8.04 Record Keeping

The Board of Directors or the managing agent retained by the Board of Directors shall keep detailed records of the actions of the Board of Directors and the managing agent; minutes of the meetings of the Board of Directors; minutes of the Annual and Special Meetings of Members; and financial records and books of account of the Club, including a list of the Lot Owner(s) of each Lot and their permanent address, a chronological listing of receipts and expenditures, as well as a separate account for each Lot, which shall contain the amount of each assessment and other charges, if any, against such Lot, the dates when installments of assessments are due, the amounts paid thereon, and the balance remaining unpaid. Upon ten (10) days' notice to the Board of Directors, any Member shall be furnished a statement of account for the Lot owned by such Member, setting forth the amount of Assessments for such Lot and payment status of such Assessments and of any other charges owing to the Club by such Member. All financial records shall be maintained and accessible for at least the past six (6) years.

Section 8.05 Separate Account for Capital Reserve Funds

Any funds of the Club collected or designated as reserves for the replacement of capital items shall be segregated from all other funds of the Club in one or more separate accounts ("Reserve Fund"). This shall not preclude the Club from segregating other portions of its funds in separate accounts for a specific purpose (e.g., reserves for non-capital items) or otherwise.

- (a) A Reserve Fund Study shall be carried out by an engineering firm to determine whether the amount of money in the Reserve Fund and the amount of contributions collected by the Club are adequate to provide for the expected costs of major repairs and replacements of the Property and assets of the Club.
- (b) The Reserve Fund shall be used solely for the purpose of major repairs and replacement of the Property and assets of the Club.
- (c) The Club shall collect contributions to the Reserve Fund from the Owners as part of their contributions to the common expenses.
- (d) The total amount of the contribution to the Reserve Fund shall be the amount that is reasonably expected to provide sufficient funds for the major repairs and replacements of the Property and assets of the Club, calculated on the basis of the expected repairs and replacement costs and the life expectancy of the Property and assets of the Club.
- (e) The Reserve Fund Study shall be updated at least once every five years or more often if the Board of Directors request same.
- (f) No part of the Reserve Fund shall be used except for the purpose mentioned in Section 8.05 (b) above.
- (g) The Board may borrow funds from the Reserve Fund for cash flow purposes in the operating fund. Any loans must be repaid by the fiscal year end of the Club. If funds are not available for repayment, then they must be added to the next year's Maintenance Assessment.
- (h) No expenditures may be made from the Reserve Fund other than those set out in the Reserve Fund Study without a vote of the majority of Owners attending a Meeting called for that purpose.
- (i) The provisions for Meetings as stated in Article IV Section 4.01 to 4.10 shall apply to this Section.

Section 8.06 Books, Records, and Legal Documents Available for Inspection

The Board of Directors shall make available for inspection upon reasonable notice and during normal business hours, to existing and prospective Lot Owners, tenants, title insurers, mortgagees, mortgage insurers, and mortgage guarantors, current copies of this By-law, the Letters Patent, the Rules and Regulations, budget, schedule of assessments, balance sheet, special resolutions, register of Members (in which are set out the name alphabetically arranged of all persons who are Members or have been within ten years Members of the Club and the address of every such person while a Member), a register of Directors (in which are set out the names and addresses of all persons who are or have been directors of the Club with the several dates on which each became or ceased to be a director), a register of ownership interests in land, and any other books, records, and financial statement of the Club. The Board of Directors may furnish copies of such documents to such parties and may charge a reasonable fee to cover the cost of furnishing such copies.

Section 8.07 Imposition, Personal Obligation, Lien

Each Lot Owner, by becoming an Owner by the acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which Title was obtained so provides, shall be deemed to covenant and agree to pay to the Club:

- (a) Annual assessments or charges for the maintenance and operation of Club Property ("Maintenance Assessments");
- (b) Special assessments for capital improvements ("Special Assessments"); together hereinafter being referred to as "Assessments."

The Assessments shall be fixed, established, and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such late charges, interest thereon, and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the Lot against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time the Assessment falls due.

Section 8.08 Purpose of Maintenance Assessment

The purpose of the Maintenance Assessment shall be to fund the maintenance, preservation, operation, and improvement of the Club Property and other property the Club is obligated to maintain, including the roadways and all storm water and sanitary sewer systems being located on Blocks 192, 207 and 214, Plan 59M-208; the utility services located along the front 15 feet of each Lot on Plan 59M-208; the recreational areas and facilities, being Block 193, Plan 59M-208; the Seawall being Block 187, Plan 59M-208; the privacy wall along Erie Road and Ridgeway Road, being Parts 69, 70, 92, 93 and 173 through 207 on Reference Plan 59R-8411 and located on parts of Lots 66 through 96 and Blocks 194 and 200, Plan 59M-208; the maintenance of the Beach being Blocks 182 and 185, Plan 59M-208; and Blocks 186, 191 and 209 through 213 on Plan 59M-208. The uses of the Maintenance Assessment shall include, but not be limited to, the payment of realty taxes on the hereinbefore described properties; any utility services to any such properties which are commonly metered or billed; all casualty, liability, and other insurance obtained by the Club to cover such properties, as well as the Club's Officers, Directors, Lot Owners and employees; the maintenance of the landscaped areas on the Lots (except such areas improved with plantings not installed by the Club or the Developer), and for such other needs as may arise. As provided in Section 8.12 of this By-law, any material increase or decrease in the maintenance responsibilities of the Club shall require the consent of the Owners of not less than two-thirds (2/3) of all Lots.

Section 8.09 Basis for Maintenance Assessment

The annual Maintenance Assessment chargeable to each Lot shall be determined each year by dividing the number of Lots into the total amount which the Board of Directors of the Club shall deem necessary to fully fund the then current budget of estimated expenses and reserves (and any operating deficits previously sustained), less any amounts received from others who are entitled to use the Club's facilities, except that, with respect to any lots improved with multiple units, the Board of Directors of the Club may modify the Maintenance Assessment chargeable to such lots to reflect and equitable allocation of the costs of the

benefits received by Owners and occupants of such lots in relation to the benefits received by the Owners and occupants of the other lots which are improved with only one unit.

Section 8.10 Special Assessments for Capital Improvements

In addition to the annual Maintenance Assessments, the Club may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying, in whole or in part, the cost of any acquisition of land or other property or the cost of any capital improvements, including without limitation, the construction, reconstruction, repair, replacement or demolition of Club Property or property which the Club has the responsibility to maintain, such as the Seawall and the privacy wall along Erie Road and Ridgeway Road, including the necessary fixtures and personal property related thereto. Before levying such a Special Assessment, the Board of Directors shall hold a Special Meeting of Members on said proposed Special Assessment and for any Special Assessment amounting to more than 20% of the then current amount of annual Maintenance Assessments, obtain the consent of two-thirds (2/3) of the total votes of Lot Owners who are voting in person or by proxy at a Meeting duly called for this purpose, written notice of which shall be sent to all Lot Owners at least 30 days in advance, setting forth the purpose of the Meeting; and for any other Special Assessment obtain the approval of not less than three-fourths (3/4) of the total votes of Members who are voting in person or by proxy at such a Meeting. The Club shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Lot Owner thereof in writing at least thirty (30) days prior to the first such due date.

Section 8.11 Date of Commencement and Notice of Assessments

The Board of Directors of the Club shall fix the amount of the Assessment against each Lot at least thirty (30) days in advance of each annual assessment period. The Assessment shall be due and payable on a full-year basis unless the Board of Directors establishes other installments for payments, which installments may or may not be equal. Separate due dates may be established by the Board of Directors for partial annual Assessments as long as said Assessments are established at least thirty (30) days before due. Written notice of the annual Assessments shall be sent to every Lot Owner. Should the Board of Directors determine at any time that the Assessments for any reason, including non-payment thereof of Lot Owners, are insufficient to fund the then current year's expenditures, the Board may assess additional amounts on a pro-rata basis to all Lot Owners.

Any Lot Owner who chooses to make payments by installments may do so, provided that all installments are made on a monthly basis. If payments are not paid monthly, then immediately the balance of the year's fees will be due and payable. All late payments will be subject to interest and late payment charges as established by this By-law.

Section 8.12 Change in Basis of Assessments

The Club may change the basis of determining the Maintenance Assessments by obtaining the written consent of not less than two-thirds (2/3) of the total votes of all Members voting in person or by proxy, written notice of which change shall be sent at least forty (40) days in advance of the date or initial date set for voting thereon to all Lot Owners and lending

institution first mortgagees of Lots whose names appear on the records of the Club except that no such change shall be made if lending institutions which together are first mortgagees on 33 1/3% or more of the Lots advise the Club in writing, prior to the date or initial date set for voting on the proposed change, that they are opposed to such change, which opposition must not be unreasonable. A written certification of any such change shall be executed by the Board of Directors and registered as an amendment to this By-law in the Land Registry Office for the Registry Division of Niagara South.

Section 8.13 Non-Payment of Assessment

If an Assessment, or installment payment thereof, is not paid on the due date, established pursuant to Section 8.09 hereof, then such Assessment payment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien on the Lot which shall bind the Lot in the hands of the then Owner and such Owner's heirs, devisees, personal representatives, successors, and assigns. In addition to such lien, the then Owner of the Lot may be held personally liable for the payment thereof (including interest, penalties, and cost of collection). Subject to the conclusive and binding effect of an Assessment Certificate issued as provided in Section 8.16 below, the grantee of a voluntary conveyance of a Lot shall be jointly and severally liable with the grantor for all unpaid Assessments against such Lot prior to the time of conveyance without prejudice to the grantee's right of recovery therefor from the grantor.

If the Assessment or any installment thereof is not paid within ten (10) days after the due date, the Club may impose a late charge or charges in such amount or amounts as the Board of Directors deems reasonable, not to exceed 10% of the amount of such overdue Assessment or installment thereof, provided such late charges are equitable and uniformly applied.

If the Assessment or any installment thereof, is not paid within thirty (30) days after the due date,

- (i) the Assessment shall bear interest from the due date, at such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed the maximum rate of interest then permitted by law;
- (ii) the Board of Directors may accelerate the remaining installments, if any, of such Assessment upon notice thereof to the Owner;
- (iii) the Club may bring legal action against the Owner at the time the arrears were incurred or any future grantee of a voluntary conveyance, or both, and the commencement of an action or obtaining a judgment against any Owner from time to time shall not preclude an action against any other Owner (who was or becomes an Owner of the Lot on or after the time the arrears of Assessment were incurred), and the cost of such proceedings, including reasonable attorneys' or solicitor's fees, shall be added to the amount of such Assessments, accelerated installments, if any, late charges, and interests; and
- (iv) the Club may preclude the delinquent Owner (and any subsequent Owner of the Lot) from using Club Property.

Any person shall, if registered as an Owner of the Lot at the Land Registry Office of Niagara South, be considered to have received the conveyance voluntarily unless the said person immediately upon demand by the Board of Directors, conveys title to the Lot to the Club or as the Club may direct.

Once an Assessment is deemed delinquent as described above, any payments received from the Lot Owner shall be applied in the following order: attorneys' or solicitor's fees, other costs of collection, late charges, interest, and then the delinquent Assessments or installments thereof, beginning with the amounts past due for the longest period.

Dissatisfaction with the quantity or quality of maintenance or other services furnished by the Club shall, under no circumstances, entitle any Owner to withhold or fail to pay the Assessments due to the Club for the Lot or Lots owned by such Owner.

Section 8.14 Notice of Default

The Board of Directors, when giving notice to a Lot Owner of a default in paying Assessments, may, at its option, or shall, at the request of a mortgagee, send a copy of such notice to each holder of a mortgage covering such Lot whose name and address appears on the Club's records. The mortgagee shall have the right to cure the Lot Owner's default with respect to the payment of said Assessments.

Section 8.15 Right to Maintain Surplus

The Club shall not be obligated in any calendar year to spend all the sums collected in such year by way of Maintenance Assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Club be obligated to apply any such surpluses to the reduction of the amount of the Maintenance Assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Club.

Section 8.16 Assessment Certificates

Upon written demand of the Owner or lessee of a Lot (or any prospective purchaser, lessee, occupant, or mortgagee of a Lot), the Club shall, within a reasonable period of time, issue and furnish a certificate in writing signed by an Officer or designee of the Club, setting forth with respect to such Lot as of the date of such certificate,

- (i) whether the Assessments, if any, have been paid;
- (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and
- (iii) whether any other amounts or charges are owing to the Club, e.g., for the cost of extinguishing a violation of the By-law or any Registered Restriction. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of such certificates.

Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Club and any bona fide purchaser, lessee, or mortgagee of the Lot on which such certificate has been furnished.

Section 8.17 Assessment Rights Must Be Consistent with Registered Restriction

All rights of Assessment contained herein, to the extent said rights affect any Lots, shall be consistent with the Registered Restriction affecting said Lots registered in the Registry Office for the Registry Division for Niagara South on May 7, 1993 under No. LT092637.

**ARTICLE IX
GENERAL POWERS AND RIGHTS OF THE CLUB**

Section 9.01 Payment of Common Expenses

The Club, for the benefit of all the Owners, shall pay for out of Club funds as common expenses, the following:

- (a) Utilities and Related Facilities. The cost of electricity, telephone, heat, power or any other necessary utility service, if any, for the Club Property, and the cost of maintaining and/or repairing and/or replacing common gas, water, hot and cold water lines, waste removal, and any utilities, which costs are not otherwise directly charged or separately metered to individual Lot Owners. In the event any utility service for a Lot is paid by the Club of a kind or nature not furnished to all Lot Owners, the Club shall charge monthly to the Owner of such Lot an estimated cost for such usage. However, the Club may discontinue payments of such utility service at any time, in which case each Owner shall be responsible for direct payment of such Owner's share of such expense as shall be determined by the Board of Directors of the Club. The Club shall have the right to levy additional Assessments against any Lot Owner to reimburse it for excessive use of any utility service by such Lot Owner in such amounts as shall be determined by the Board of Directors.
- (b) Casualty and Liability Insurance. Premiums upon all insurance obtained as required or permitted by this By-law.
- (c) Wages and Fees for Services. The fees for services of any person or firm employed by the Club, including, without limitation, the services of a person or firm to act as a manager or managing agent for the Club, and legal, accounting, or other services or expenses necessary or proper in the conduct of the affairs of the Club or the enforcement or interpretation of this By-law and for the organization, operation, and enforcement of the rights of the Club.
- (d) Care of Club Property. The cost of landscaping, gardening, security, snow removal, painting, cleaning, decorating, refurbishing, maintenance, repair, replacement and rehabilitation of the Club Property, as required by this By-law or determined to be appropriate by the Board of Directors from time to time.
- (e) Certain Maintenance of Lots. The cost of the reasonable maintenance and repair of any Lot or Improvement thereon if such maintenance or repair is necessary, in the discretion of the Board of Directors, for the public safety or to protect the Club Property or the value of adjacent properties, and the Lot Owner has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity thereof delivered by the Club to such Lot Owner; provided that the

Club shall levy a Special Assessment against such Lot Owner for the cost of such maintenance or repair.

- (f) Additional Expenses. The cost of any other materials, supplies, furniture, labour, services, maintenance, repairs, structural alterations, insurance, or other expenses which the Club is required or permitted to secure or pay for pursuant to the terms of this By-law or which, in the opinion of the Board of Directors, shall be necessary or proper for the maintenance and operation of the Club Property to preserve the property as a first-class community.

Section 9.02 Capital Additions, Alterations, and Improvements

Notwithstanding anything in this By-law which authorizes expenditures, no expenditure by the Board of Directors for any additions, alterations, or improvements (as distinguished from maintenance, repair, or replacement) of Club Property exceeding in total cost \$10,000.00 (which amount shall increase January 1st of each year after the year in which this By-law is registered by 5% above the amount for the immediate previous year), and no increase in the annual Maintenance Assessment in excess of 15% over the previous year be made, without in each case having the prior approval of a majority of all Lot Owners who shall be present in person or by proxy at an Annual or a Special Meeting duly held for such purpose. If such approval is obtained, the Board of Directors shall proceed with such additions, alterations, or improvements and shall assess all Lot Owners for the cost thereof as a common expense. The limitations on expenditures by the Board contained in this Section shall in no event apply to repair of Property due to casualty loss, emergency repairs immediately necessary for the preservation and safety of Club Property, for the safety of persons or to avoid suspension of any necessary services.

Section 9.03 No Active Business to be Conducted for Profit

Nothing herein contained shall be construed to give the Club authority to conduct an active business for profit on behalf of all the Members or any of them.

Section 9.04 Miscellaneous Income

The Club may own or enter into agreements for the lease of washing machines, dryers, vending machines, and other facilities solely for the convenience of the Members. In the event such items create a profit, these funds shall be added to the Club's general fund. All monies received for the rental of or for the use of any Club Property, shall be added to the Club's operations account. The above enumerated items of income and any other monies received other than through Assessments shall be used to defray the items of common expense.

Section 9.05 Special Services

The Club may arrange for the provision of any special services and facilities for the benefit of such Lot Owners and/or occupants of Lots as may desire to pay for the same including, without limitation, firewood, snow removal from driveways on Lots, and snow removal from entry walks on Lots. Fees for such special services and facilities shall be determined by the Board of Directors and may be charged directly to participating Lot Owners, or paid from the maintenance fund and levied as a Special Assessment against such participating Lot Owners.

Section 9.06 Delegation of Duties

Nothing herein contained shall be construed so as to preclude the Club, through the Board of Directors or Officers of the Club, from delegating to persons, firms, or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Club as the Board of Directors shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 9.07 Acquisition, Conveyance, Improvement, and Changes in Use of Club Property

Subject to the limitations set forth in this Section, the Board of Directors, on such terms and conditions as it deems appropriate, may authorize:

- (a) the acquisition, through purchase, gift, lease or any combination thereof, of land or Improvements or any combination thereof, as Club Property;
- (b) the transfer, conveyance, donation, lease, or other disposition of any Club Property;
- (c) the construction of, or the making of additions, modifications or alterations to, or the demolition of, Improvements to Club Property; and
- (d) the material change in the use of any Club Property (including, without limitation, construction of Improvements so as to convert passive recreational or open space to active recreational use).

Upon the affirmative vote of the Board of Directors proposing any of the above, the Board of Directors shall hold a Special Meeting of Members to confirm the proposal and the proposal may proceed upon the affirmative vote of Members owning 75% or more of the Lots present in person or by proxy at such Special Meeting called for such purpose.

If a proposed acquisition of land or improvements or the construction, addition, modification, alteration to, or the demolition of Club Property, will result in the imposition of a Special Assessment as provided in Section 8.10 of this By-law, the Board of Directors shall hold a Special Meeting of Members, prior to finally authorizing such action.

Prior to:

- (i) the making of an addition, modification, or alteration to Club Property; or
- (ii) the demolition of any Improvement on Club Property; or
- (iii) the authorizing of a material change in use of Club Property;

The Board of Directors shall review the architectural or aesthetic impact of such addition, alteration, demolition, or change in use.

Section 9.08 Indemnification of Directors, Officers, and Committee Members

Except as may be contrary to applicable law, every Director, Officer, and member of a Committee of the Club, and the heirs, executors, administrators, estate, effects, and other legal personal representative of such Director, Officer, and Committee member, shall at all times be indemnified and saved harmless out of the funds of the Club against all expenses and liabilities, including fees of counsel, judgments, decrees, fines, penalties or amounts paid in settlement, reasonably incurred by or imposed upon such Director, Officer, or Committee member, in connection with the defense of any pending or threatened action, suit or

proceeding, criminal or civil, to which such Officer, Director, or Committee member may be a party, or in which such Officer, Director, or Committee member may become involved, by reason of being or having been an Officer, Director, or Committee member of the Club, whether or not such person is an Officer, Director, or Committee member at the time such expenses are incurred, except in such cases wherein the Officer, Director, or Committee member is adjudged guilty of willful misfeasance or malfeasance in the performance of duties; provided, that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement as being in the best interests of the Club. The foregoing right of indemnification shall in addition to, and shall not be exclusive of, all rights to which each such Officer, Director, or Committee member may otherwise be entitled. Funds to cover the above expenses, including fees of legal counsel, may be advanced by the Club, prior to the final disposition of the matter, upon receipt of an undertaking by or on behalf of the recipient to repay such amounts unless it shall ultimately be determined that the recipient is not entitled to indemnification hereunder.

Section 9.09 Rights of Club

With respect to the Club Property, and in accordance with the Letters Patent, the Registered Restrictions, and this By-law, the Club shall have the following rights:

- (a) to promulgate rules and regulations relating to the use, operation, and maintenance of the Club Property for the safety and convenience of the users thereof or to enhance the preservation of such facilities or which, in the discretion of the Club, shall serve to promote the best interests of the Members;
- (b) with respect to any violation of any Registered Restriction or of this By-law or of the rules and regulations of the Club or of any Committee of the Club, and after affording the alleged violator a reasonable opportunity to appear and be heard, to establish monetary and non-monetary penalties, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against a Member shall be deemed a Special Assessment against the Lot owned by such Member and, as such, shall be a charge and continuing lien upon such lot, shall constitute a personal obligation of the Owner of such Lot, and shall be collectible in the same manner as other Assessments owing to the Club.
- (c) to grant easements or right of way, with or without consideration to any public or private utility corporation, cable television company, or governmental agency;
- (d) to dedicate, sell, transfer, abandon, partition, or encumber (except for any transfer or encumbrance to a public utility or for other public purposes consistent with the intended use of such land by or for the benefit of the Members) all or any part of the land which it owns for such purposes and subject to such conditions as may be agreed to by the Club and the transferee. Such a conveyance shall require the consent of Members having two-thirds (2/3) of the votes of each class of Members, who shall vote by written ballot, which shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the date or initial date of the canvass thereof; and

- (e) to enter into agreements, reciprocal or otherwise, with other homeowners' and residents' associations and condominiums for the use or sharing of facilities. Such agreements shall require the consent of Members having two-thirds (2/3) of the votes of each class of Members voting upon written ballot, which shall be sent to every Member not less than thirty (30) days nor more than fifty (50) days in advance of the date or initial date of the canvass thereof.

Section 9.10 Right to Borrow and Mortgage

In order to fulfill the purposes set forth herein, the Club may borrow funds from any recognized lending institution, and in conjunction therewith mortgage its properties. The amount, terms, rate, or rates of all borrowing and the provisions of all agreements with note holders shall be subject solely to the discretion of the Board of Directors acting in its absolute discretion, except that any borrowing in excess of \$25,000.00 (which amount shall increase by 5% annually beginning January 1, 1994) shall require the prior approval of the Lot Owners of at least 50% of the Lots.

Section 9.11 Repayment of Monies Borrowed

In order to secure the repayment of any and all sums borrowed from time to time, the Club is hereby granted the right and power:

- (a) to assign and pledge all revenues received and to be received by it under any provision of this By-law including, but not limited to, the proceeds of the Maintenance Assessments hereunder;
- (b) to enter into agreements with note holders with respect to the collection and disbursement of funds, including, but not limited to, agreements wherein the Club covenants to:
 - (i) assess the Maintenance Assessments on a given day in each year and, subject to the limitation on amount specified in Section 8.10 hereunder, to assess the same at a particular rate or rates;
 - (ii) establish sinking funds and/or other security deposits;
 - (iii) apply all funds received by it first to the payment of all principal and interest on such loans, when due, or to apply the same to such purpose after providing for costs of collection;
 - (iv) establish such collection, payment and lien enforcement procedures as may be required by the note holders;
 - (v) provide for the custody and safeguarding of all funds received by it.

Section 9.12 Insurance

The Club shall obtain and maintain all such insurance as would be prudent to protect Club Property, other areas that the Club has an obligation to maintain, Officers, and Directors. The amounts of such insurance shall be reviewed annually by the Board of Directors.

Section 9.13 Rules and Regulations

The Club may make such Rules and Regulations as it deems appropriate from time to time to enhance the use and enjoyment of the Property by its Members including, by way of illustration and not limitation, rules relating to

- (i) advertising and signs;
- (ii) the keeping of pets;
- (iii) the placement of fencing, walls, and screen plantings;
- (iv) garbage and refuse disposal;
- (v) the utilization of above surface utility lines;
- (vi) the perpetration of noxious emissions or other annoying or offensive activities;
- (vii) the violation of any governmental laws, codes, ordinances, or regulations;
- (viii) the carrying out of oil or mining operations;
- (ix) the use of other than a unit for dwelling purposes;
- (x) the erection of any television, radio, satellite dish, or other communication systems;
- (xi) the use of a Lot or improvement thereon for other than residential purposes;
- (xii) the carrying on of commercial or professional activity;
- (xiii) the outside storage or parking of commercial or recreational vehicles, camper bodies, boats, or trailers;
- (xiv) the performing of extensive outdoor repair work on machines, motors; or vehicles or of work which may disturb residents;
- (xv) the parking of oversized, commercial, recreational, or unlicensed motor vehicles, boats, trailers, and camper bodies;
- (xvi) the outdoor drying or airing of clothing or bedding;
- (xvii) the removal of trees and shrubs;
- (xviii) the operation of snowmobiles, motorcycles, golf carts, Gem cars, and all-terrain vehicles;
- (xix) the minimum size of dwellings;
- (xx) the keeping clear of walkways from mud and debris;
- (xxi) the construction of outdoor hot tubs or spas;
- (xxii) the limiting of the times when outdoor construction may be undertaken; and
- (xxiii) the grading and seeding of Lots.

All Rules and Regulations affecting only Club Property shall be passed and put into effect with a vote of a majority of the Board of Directors. Any Rules and Regulations affecting a Member's own use of the Lot owned by such Member shall require the approval of two-thirds (2/3) of the Members present in person or voting by proxy at a Meeting specially called for that purpose.

ARTICLE X
PROPERTY RIGHTS AND EASEMENTS

Section 10.01 Right and Easement of Enjoyment in Club Property

As provided in the Registered Restrictions, every Member (and such Member's guests, licensees, tenants and invitees) shall have

- (i) a right and easement of enjoyment in and to all Club Property, subject, however, to the rights of the Club as set forth in Section 9.09 and 10.03 herein;
- (ii) an easement for ingress and egress by vehicle or on foot as described in Section 10.04 hereof and the common utility and conduit easements described in Section 10.03 hereof. These easements will be subject to the rights of the Club as set forth in Section 9.09 herein, provided, however, that any conveyance or encumbrance referred to in Section 9.09(c) shall be subject to said easement of each Member for ingress and egress. All such easements shall be appurtenant to and shall pass with the interests of a Member.

Section 10.02 Club Easement and Right of Access for Maintenance, Repair, and Replacement

As provided in the Registered Restrictions, the Club (and its employees, contractors and agents) shall, upon reasonable notice to the Owner(s) directly involved, if any, have an easement and right of access to any portion of the Property, including the Lots and units, to permit the maintenance, repair, or replacement of any Property facilities, including

- (i) any pipes, wires, coaxial cables, security system lines, conduits, drainage areas or common utility lines servicing two (2) or more Lots
- (ii) the Seawall and the privacy wall along Erie Road and Ridgeway Road, and
- (iii) landscaped areas, the maintenance of which is the responsibility of the Club, except that in an emergency, the Club shall have the right, without notice, to enter upon any portion of the Property, including the Lots and units, to make necessary repairs or to prevent damage to any portion of the Club Property or any other property which the Club has the responsibility to maintain, repair or replace as provided in this By-law. The repair of any damage caused in gaining access in an emergency shall be at the expense of the Club. The cost of such repair, maintenance or replacement shall be a common expense funded from the "Maintenance Assessments," (see Article (VIII)) except that, if occasioned by a negligent or willful act or omission of a specific Owner or Owners, it shall rather be considered a special expense allocable to the Owner or Owners responsible and such cost shall be added to the Maintenance Assessment of such Owner or Owners and, as part of that Assessment, shall constitute a lien on the Lot, or Lots or such Owner or Owners to secure the payment thereof.

Section 10.03 Common Access Easements

As provided in the Registered Restrictions, all Lot Owners and their guests and invitees shall have an easement by vehicle or foot for ingress and egress in common with one another over all walkways, driveways, and roadways located on Club Property.

Section 10.04 Damage Resulting from Use of Easement

Any damage to any Lot or other portion of the Property or to any improvements thereon as a result of any act or work performed pursuant to the authority granted in this By-law, or as a result of the use of any easement granted or reserved herein, shall be promptly repaired, replaced, or corrected as necessary by the person or entity performing the act or work and/or by the grantee or holder of the easement being exercised, at the cost and expense of such person or entity (except as provided in Section 10.03 above), so that any such damage will be restored or replaced to the condition in which it existed immediately prior to the damage.

Section 10.05 Inspection and Entry Rights

Any agent of the Club may at the reasonable time or times, upon not less than twenty-four (24) hours' notice to the Owner, enter upon a Lot or other portion of the Property to inspect the improvement thereon for the purpose of ascertaining whether the maintenance, construction, or alteration of structures or other Improvements thereon comply with this By-law, the Rules and Regulations issued pursuant hereto, and the Registered Restrictions. Neither the Club nor any agent directed or authorized by the Club shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

In addition to the above, if, after issuance of a Certificate of Compliance with respect to an improvement on a Lot, the Board of Directors of the Club determines that it is necessary to trim, cut, or prune any tree, hedge, or other planting because its location or the height to which or the manner in which it has been permitted to grow is unsightly, detrimental, or potentially detrimental to persons or property, or obscures the view of street traffic or is otherwise in violation of this By-law or of any Registered Restriction or of the Club's Rules and Regulations, or if trash or other waste material has been allowed to accumulate outdoors, the Club shall notify the affected Lot Owner who shall be obliged to remedy the violation. If the Owner fails to remedy the violation within thirty (30) days after such notice is given, the Club may take such remedial action as is necessary at the expense of the Owner and/or impose a penalty or fine on the Owner in accordance with Section 9.0 of these By-laws. Any alteration or demolition of a constructed Improvement may only be undertaken pursuant to a judicial ruling or direction.

Section 10.06 Lot Owners' Waiver of Right to Petition Town of Fort Erie for Dedication of Roadways

Each Owner, upon becoming an Owner, by acceptance of a deed or otherwise, automatically waives any right to petition the Town of Fort Erie for the dedication of all or any portion of the roadway over which such Owner's Lot is accessed from Erie Road or Ridgeway Road. This Section shall not be amended without the consent of the Town of Fort Erie.

ARTICLE XI AMENDMENTS

Section 11.01 Alteration, Repeal, or Amendment

This By-law may be modified, altered, repealed, amended, or added to at any regular or Special Meeting of the Members provided that:

- (a) a notice of the Meeting containing a full statement of the proposed modification, alteration, repeal, amendment, or addition has been sent to all Members and mortgagees of Lots as listed on the records of the Club, not less than twenty (20) nor more than (40) days prior to the date or initial date set for the canvass of the vote thereon;
- (b) the proposed action is approved by the Members present at the Meeting in person or by proxy who have two-thirds (2/3) or more of the votes represented at such Meeting; and
- (c) prior to the date or initial date for the canvass of the vote thereon, the Club has not received written notification of opposition to the change from Members owning more than 33% of all Lots owned by Members.

Notwithstanding the above, any conversion of the Club to a “Company” or to a “Corporation with share capital” as such would be defined under applicable law, shall require the consent of at least 95% of the Members or such other percentage as may be required by the applicable law at the time of such proposed conversion.

Section 11.02 Form of Amendment Proposals

This By-law shall not be modified, altered, amended, or added to by reference to its title or number only. Proposals to amend existing By-laws shall contain the full text of the By-laws to be modified, altered, amended, or added to, new words shall be inserted in the text underlined, or italicized, and words to be deleted shall be lined through. If the proposed changes are so extensive that the above procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and interlining as indicators of words added or deleted, but a notation must be inserted immediately preceding the proposed amendment in substantially the following language: “Substantial rewording of By-law, see Schedule ___ of By-law for present text.”

Section 11.03 Nonmaterial Errors or Omissions

Nonmaterial errors or omissions in the By-law amendment process shall not invalidate an otherwise properly promulgated amendment.

Section 11.04 Effective Date of Amendment

Amendments to the By-law shall be effective in accordance with the terms of its adoption on the date so adopted by the Members.

ARTICLE XII MISCELLANEOUS

Section 12.01 Notices

All notices hereunder shall be in writing and delivered personally or sent by email, or sent by mail by depositing same in an American or Canadian post office or letter box in a postpaid sealed wrapper, addressed,

- (i) if to go to the Board of Directors, or to the Club, to any member of the Board of Directors or to the Secretary of the Club (if the Secretary is not a member of the Board of Directors);
- (ii) if to go to a Member to such permanent address of such Member as appears on the books of the Club;
- (iii) if to go to a mortgagee, to the address of such mortgagee as appears on the books of the Club; and
- (iv) if to go to a devisee or personal representative of a deceased Member, to the address of such devisee or personal representative as appears on the records of the Court wherein the estate of such deceased Member is being administered. 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. Whenever any notice is required to be given under the provisions of this By-Law, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

Such notice, communication, or documents shall be deemed to have been given when they are delivered personally or mailed to the address aforesaid or by electronic mail (e.g., facsimile or email) on consent of the Owner, from time to time. Provided, that a notice, communication, or document so mailed shall be deemed to have been given when deposited in a post box or a public letter box, or in the case of electronic mail, upon the date of electronic transmission.

Section 12.02 Conflict with Letters Patent

In the case of any conflict between the Letters Patent for the Club and this By-law, the Letters Patent shall control.

Section 12.03 No Waiver for Failure to Enforce

No restriction, condition, obligation, or provision contained in this By-law shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 12.04 Gender

The use of gender in this By-Law shall be deemed to include the masculine, feminine, or neutral and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 12.05 Captions

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of this By-Law, or the intent of any provision thereof.

Section 12.06 Severability

Should any part of this By-Law be deemed void or become unenforceable at law or in equity, the validity, enforceability, or effect of the balance of this By-Law shall not be impaired or affected in any manner.