
(Above Space Reserved for Recording Data)

WINDCLIFF ASSOCIATION, INC.

AMENDED BYLAWS

PREAMBLES:

WHEREAS, Articles of Incorporation of the Windcliff Association, Inc. (the “Association”) were duly adopted and were filed in the Office of the Minnesota Secretary of State on October 17, 2003 (the “Articles”); and

WHEREAS, Bylaws of the Association were duly adopted and recorded in the office of the Wabasha County Recorder on February 4, 2004 as Document Number 262483 (the “Bylaws”); and

WHEREAS, Pursuant to Article XII of the Articles, Article VI of the Bylaws and Section 317A.181 Subd. 2 of the Minnesota Statutes the Board of Directors of the Association, with the approval of the members with voting rights, has duly adopted these Amended Bylaws;

THEREFORE, the Association with the requisite approval of its Members and the members of the Board of Directors of the Association, does hereby amend the Bylaws as follows:

SECTION 1

GENERAL

The following are the Amended Bylaws of the Windcliff Association, Inc., a Minnesota nonprofit corporation (the “Association”). The Association is organized pursuant to Minnesota Statutes Chapter 317A known as the Minnesota Non-Profit Corporation Act (the “Act”) for the purpose of operating and managing a residential community located in the plat of the Windcliff Subdivision in Lake Township, Wabasha County, Minnesota described in Exhibit A attached hereto (“Windcliff”) governed by that certain Declaration Establishing Protective Covenants for “Windcliff” Subdivision-Lots 1 through 45 recorded November 10, 2003 as Document No. 280726 in the office of the Wabasha County Recorder (the “Declaration”). The “Governing Documents”

consist of the Articles, Bylaws, Declaration, any Rules or Regulations adopted by the Board and any other recorded Agreements governing use of the Lots, and any amendments thereto. The terms used in these Amended Bylaws shall have the same meaning as they have in the Declaration and the Act. References to section numbers refer to the sections of these Amended Bylaws unless otherwise indicated.

SECTION 2

MEMBERSHIP/OWNERSHIP OF LOTS AND OUTLOTS

2.1 Members Defined. Each Owner of a Lot in Windcliff shall be a member of the Association by virtue of Lot ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Lot. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Lot, all such Persons shall be members of the Association, but multiple ownership of a Lot shall not increase the voting rights allocated to such a Lot nor authorize the division of the voting rights. No Person shall be a Member solely by virtue of holding a contract for deed vendor's interest, mortgage or security interest, leasehold interest or other non-ownership right of occupancy in a Lot. A Person shall cease to be a Member at such time as that person is no longer an Owner.

2.2 Registration of Owners and Occupants. Upon acquiring ownership of a Lot, an Owner shall register with the Secretary of the Association, in writing, (i) the name and address of the Owners and any Occupants of the Lot; (ii) the nature of such Owner's interest or estate in each Lot owned; (iii) the address at which the Owner desires to receive notice of any meeting of the Owners, if other than the Lot address; (iv) the name and address of the secured party holding the first mortgage of the Lot, if any; and (v) the name of the Owner, if there are multiple Owners of the Lot, who shall be authorized to cast the vote with respect to the Lot. The Owner shall have a continuing obligation to advise the Association in writing of any changes in the foregoing information.

2.3 Transfers. The interest, rights and obligations of an Owner in the Association may be assigned, pledged, encumbered or transferred, but only along with and as part of the title to the Owner's Lot or as otherwise specifically authorized by the Governing Documents or by law.

2.4 Ownership of Outlots. Title to Outlots A and B of the Plat of Windcliff shall be held in the name of Windcliff Association. Every Member shall have a right and easement of enjoyment in the Outlots A and B and such easement shall be appurtenant to and shall pass with the title to every lot. The rights and easement of enjoyment created hereby and the title of the Association to the Outlots shall be subject to the following:

- The rights of the Association to take such steps as are reasonably necessary to protect the open areas against foreclosure; and
- The rights of the Association, as provided herein, to suspend enjoyment rights of any Member for any period during which any assessment remains unpaid; and

- The right of the Association to grant the proper parties the use of such portions of the open acres as may be necessary and incidental to the construction and maintenance of improvements to Windcliff Subdivision, including but not limited to, ingress and egress by foot or vehicle, vehicular parking, placement of signs advertising the property for sale within Windcliff Subdivision, cut and fill areas for the construction of roads together with the right of the Association to execute and deliver any and all companies deemed necessary for the purpose of providing gas, electric, telephone, cable, fiber optic services, etc. to the Lots within Windcliff Subdivision.

SECTION 3 VOTING

3.1 Entitlement. As provided in the Articles, voting rights are allocated equally among all Lots with each Lot entitled to one vote. However, no vote shall be exercised as to a lot while the Lot is owned by the Association. There shall be no class voting for directors of the Association or on specified issues affecting any class.

3.2 Authority to Cast Vote. At any meeting of the Owners, an owner included on the voting register presented by the Secretary in accordance with Section 4.6, or the holder of such Owner's proxy, shall be entitled to cast the vote which is allocated to the Lot owned by the Owner. If there is more than one Owner of a Lot, only one of the Owners may cast the vote. If the Owners of the Lot fail to agree and notify the Association as to who shall cast the vote, the vote shall not be cast.

3.3 Voting by Proxy. An Owner may cast the vote which is allocated to the Owner's Lot and be counted as present at any meeting of the Owners by: (i) executing a written proxy naming another Person entitled to act on the Owner's behalf, and delivering the same to the Secretary before the commencement of any such meeting; or (ii) telephonic transmission or authenticated electronic communication, whether or not accompanied by written instructions of the Member, of an appointment of proxy to the Secretary before the commencement of the meeting. All proxies granted by an Owner shall remain in effect until the earliest of the following events: (i) revocation by granting the Owner by written notice or by personally attending and voting at the meeting for which the proxy is effective, (ii) the date specific in the proxy, if any, or if none eleven months after the date of the proxy, or (iii) the time at which the granting Owner is no longer an Owner.

3.4 Voting by Mail Ballot or Electronic Means. To the extent not limited or prohibited by the Association's Governing Documents or the Act, the vote on any issue or issues may be taken by electronic means or by mailed ballots, in compliance with the statutes under which the Association was created, in lieu of holding a meeting of the Owners. Such a vote shall have the full force and effect of a vote taken at a meeting; provided, that the total votes cast are at least equal to the votes required for a quorum. All requirements in this Section or the Governing Documents for a meeting of the owners, or being present in person, shall be deemed satisfied by a

vote taken in compliance with the requirements of this Section. The voting procedures authorized by this Section shall not be used in combination with a vote taken at a meeting of the Owners. However, voting by electronic means and mailed ballot may be combined if each is done in compliance with statutes or the Act. Ballots, along with notice of the vote, shall be delivered to every Member entitled to vote on a matter, subject to the following requirements.

- a. Ballots and notice of the vote may be delivered by electronic communication only if the Association complies with Section 317A.45, Subd. 5, of the Minnesota Statutes. Consent by a Member to receive notice by electronic communication in a certain manner constitutes consent to receive a ballot by electronic communication in the same manner.
- b. The notice of the vote shall: (i) clearly state the proposed action, (ii) provide an opportunity to vote for or against each proposed action, (iii) indicate the number of responses needed to meet the quorum requirements, (iv) state the percentage of approvals necessary to approve the matter, and (v) specify the time by which the ballot must be received by the Association in order to be counted. The Board shall set a voting period within which the ballots or other voting responses must be received by the Association, which period shall be not less than 15 nor more than 45 days after the date of delivery of the notice of the vote and voting procedures to the owners.
- c. A ballot shall: (i) set forth each proposed action and (ii) provide an opportunity to vote for or against each proposed action.
- d. The Board shall provide notice of the results of the vote to the Owners within 30 days after the expiration of the voting period.
- e. Approval by ballot under this Section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

3.5 Vote Required. A majority of the votes cast at any properly constituted meeting of the Owners, or cast by mail in accordance with section 3.4, shall decide all matters properly brought before the Owners, except where a different vote or voting procedure is specifically required by the Governing Documents or the Act. The term “majority” as used herein shall mean in excess of 50% of the votes cast at a meeting, in person or by proxy, or voting by mail, in accordance with the allocation of voting power set forth in the Declaration. Cumulative voting shall not be permitted.

3.6 Written Action. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting by writing signed by all Members.

SECTION 4 MEETING OF OWNERS

4.1 Place. All meetings of the Owners shall be held at such a place in the State of Minnesota reasonably accessible to the Owners as may be designated by the Board in any notice of a meeting of the Owners.

4.2 Annual Meetings. An annual meeting of the Owners shall be held at a reasonable time and place designated by the Board. At each annual meeting of the Owners, (i) the Persons who are to constitute the Board shall be elected pursuant to Section 6, (ii) a report shall be made to the Owners on the activities and financial condition of the Association, and (iii) any other matter which is included in the notice of the annual meeting, and is proper subject for discussion or decision by the Owners, shall be considered and acted upon at the meeting.

4.3 Special Meetings. Special meetings of the Owners may be called by the President or two (2) or more members of the Board as a matter of discretion. Special meetings of the Owners shall be called by the President or Secretary within 30 days following receipt of the written request of a majority of the members of the Board or of Owners entitled to cast at least 20% of all of the votes of the Association. The meeting shall be held within 60 days following receipt of the request. The request shall state the purpose of the meeting, and the business transacted at the special meeting shall be confined to the purposes stated in the notice. The purpose for which the meeting is requested and held must be lawful and consistent with the Association's purposes and authority under the Governing Documents.

4.4 Notice of Meetings. At least 21, but no more than 30, days in advance of any annual meeting of the Owners, and at least 7, but no more than 30, days in advance of any special meeting of the Owners, the secretary shall send notice of the meeting to all persons who are Owners as of the date of sending the notice by hand delivery or by postage prepaid by the United States mail to the Owner's Lot address or to such other address as the Owner may have designated in writing to the Secretary or by electronic communication in accordance with Section 11.1 of these Amended Bylaws. The notice of meeting shall state the date, time and place of the meeting, the purposes of the meeting, the agenda of the meeting, and, if proxies are permitted, the procedures for appointing proxies. Notice of meetings to vote upon amendments to the Association's Articles of Incorporation shall also be given separately to each officer and director of the Association.

4.5 Quorum/Adjournment. The presence of Owners in person or by proxy, who have the authority to cast in excess of twenty percent (20%) of all the votes in the Association shall be necessary to constitute a quorum at all meetings of the owners for the transaction of any business, except that of adjourning the meeting to reconvene at a subsequent time. Any meeting may be adjourned from time to time, but until no longer than 15 days later, without notice other than announcement at the meeting as initially called. If a quorum is present at the reconvened meeting, any business may be transacted which might have been transacted at the meeting as initially called had a quorum then been present. The quorum, having once been established at a meeting or a reconvened meeting, shall continue to exist for that meeting notwithstanding the departure of any

Owner previously in attendance in person or by proxy. The Association may not be counted in determining a quorum as to any Lot owned by the Association.

4.6 Voting Register. The Secretary shall have available at the meeting a list of the Lot numbers, the names of the Owners, the vote attributable to each Lot and the name of the Person (in the case of multiple Owners) authorized to cast the vote.

4.7 Agenda. The agenda for meetings of the Owners shall be established by the Board, consistent with the Governing Documents, and shall be sent to all Owners along with notice of the meeting.

SECTION 5 ANNUAL REPORT

5.1 Annual Report. The Board shall prepare an annual report on behalf of the Association, a copy of which shall be provided to each Owner at or before the annual meeting of the Owners. The report shall contain at a minimum:

- a. A statement of any capital expenditures in excess of two percent (2%) of the current budget or \$5,000, whichever is greater, approved by the Association for the current fiscal year or succeeding two fiscal years.
- b. A statement of the Association's total replacement reserves, the components of the Property for which the reserves are set aside, and the amounts of the reserves, if any, that the Board has allocated for the replacement of each of those components.
- c. A copy of the statement of revenues and expenses for the Association's last fiscal year, and a balance sheet as of the end of said fiscal year.
- d. A statement of the status of any pending litigation or judgements to which the Association is a party.
- e. A detailed description of the insurance coverage provided by the Association.
- f. A statement of the total past due assessments on all Lots, current as of not more than 60 days prior to the date of the meeting.

SECTION 6 BOARD OF DIRECTORS

6.1 Number and Qualification. The affairs of the Association shall be governed by a Board. Except as expressly prohibited by the Governing Documents or the Act, the Board may act in all instances on behalf of the Association. The Board shall be composed of not less than three (3) nor more than five (5) directors appointed or elected in the manner specified herein, each of

whom shall be an Owner, or a duly authorized representative of the Owner if the Owner is an entity rather than an individual. At no time shall more than one Owner of an individual Lot be a member of the Board.

6.2 Election and Terms of Office. The Owners shall elect the Board. All Owners may cast the votes allocated to any Lots owned by them. The terms of office of the members of the Board shall be staggered so that at least one-half (1/2) of the terms of the directors shall expire annually. Each term of office thereafter shall be two years and shall expire upon the election of a successor at a subsequent annual meeting of the Owners; provided, that a director shall continue in office until a successor is elected. A number of nominees equal to the number of vacancies, and receiving the greatest number of votes, shall be elected, notwithstanding that one or more of them does not receive a majority of the votes cast. A director appointed or elected to fill an uncompleted term shall serve until the natural termination of that term, unless removed in accordance with these Amended Bylaws. There shall be no cumulative voting for directors.

6.3 Nominations. Nominations for election to the Board may be made by a nominating committee appointed by the Board, or from the floor at an annual meeting or by "write-in" if authorized by the Board. The nominating committee shall consist of Owners who are representative of the general membership of the Association, and shall establish fair and reasonable procedures for the submission of nominations. All nominations shall be consistent with the requirements of this Section 6, and shall be made only with consent of the nominee.

6.4 Meetings and Notices. An annual meeting of the Board shall be held promptly following each annual meeting of the Owners. At each such annual meeting the officers of the Association shall be elected.

- a. Regular meetings of the Board shall be held at least on a quarterly basis, at such time as may be fixed or from time to time by a majority of the members of the Board. A schedule, or any amended schedule, of the regular meetings shall be provided to the directors, and posted or published for the information of the Owners as provided in section 6.4 e.
- b. Special meetings of the Board shall be held when called (i) by the President of the Association, or (ii) by the Secretary within ten (10) days following the written request of a majority of the voting directors. Notice of any special meeting shall be given to each director not less than three (3) days in advance thereof, subject to Section 6.4 c. Notice to a director shall be deemed to be given when deposited in the United States mail postage prepaid to the Lot address of such director, or when personally delivered, orally or in writing, by a representative of the Board or by electronic communication in accordance with Section 11.1 of these Amended Bylaws.
- c. Any director may at any time waive notice of any meeting of the Board orally, in writing or by attendance at the meeting. If all the directors are present at a meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

d. A conference among directors by one or more means of remote communication through which all directors may simultaneously hear each other during the Conference is a Board meeting, if (i) the same notice is given of the conference as would be required for a meeting, and (ii) the number of directors participating in the conference is a quorum. Participation in a meeting by this means is personal presence at the meeting.

e. Except as otherwise provided in this section, meetings of the Board must be open to the Owners. To the extent practicable, the Board shall give reasonable notice to the Owners of the date, time, and place of a Board meeting. If the date, time and place of meetings are provided for in the Association's Articles of Incorporation, the Bylaws, announced at a previous meeting of the Board, distributed to Members in writing, posted in a location accessible to the Owners and designated by the Board from time to time, or if an emergency requires immediate consideration of a matter by the Board notice is not required. "Notice" has the meaning given in Section 11.1. Notwithstanding the foregoing, meetings may be closed at the discretion of the Board to discuss the following:

- (1) personnel matters;
- (2) pending or potential litigation, arbitration or other potentially adversarial proceedings, between Owners, between the Board or Association and Owners, or other matters in which any Owner may have an adversarial interest, if the Board determines that closing the meeting is necessary to discuss strategy or to otherwise protect the position of the Board or Association or the privacy of an Owner or Occupant of a Lot;
- (3) criminal activity arising within the Association or Property if the Board determines that closing the meeting is necessary to protect the privacy of the victim or that opening the meeting would jeopardize investigation of the activity; or
- (4) Any matter which is subject to any attorney-client privilege.

The minutes of and the documentation discussed or submitted at such closed meeting need not be made available for review or copying pursuant to Section 8.5. Nothing in this Section imposes a duty on the Board to provide special facilities for meetings. The failure to give notice as required by this Section shall not invalidate the Board meeting or any action taken at the meeting, but shall not impair the Owners' rights to exercise other remedies against the directors of the Association.

6.6 Quorum and Voting. A majority of the members of the Board shall constitute a quorum for the transaction of business at any meeting thereof. A quorum, once established, shall continue to exist, regardless of the subsequent departure of any directors. Each director shall have one vote. The majority of the directors present at any meeting at which a quorum is present shall be sufficient to adopt any action. Proxies shall not be permitted.

6.7 Action Taken Without a Meeting. An action of the Board may be taken by written action signed, or consented by authenticated electronic communication, by all directors. The

written action is effective when signed, or consented to by authenticated electronic communication, by the required number of directors, unless a different effective time is provided in the written action.

6.8 Vacancies. A vacancy in the Board shall be filled by a person elected within ninety (90) days following the occurrence of the vacancy by a majority vote of the remaining directors, regardless of their number, except for vacancies created pursuant to Sections 6.2 and 6.9. Each person so elected shall serve out the term vacated.

6.9 Removal. A director may be removed from the Board, with or without cause, by a majority vote at any annual or special meeting of the Owners; provided, (i) that the notice of the meeting at which the removal is to be considered states such purpose, (ii) that the director to be removed has the right to be heard at the meeting and (iii) that a new director is elected at that meeting by the Owners to fill the vacant position caused by the removal. A director may also be removed by the Board if such a director (i) has more than two unexcused absences from Board meetings and/or Owners meetings during any twelve-month period or (ii) is more than 60 days past due with respect to assessments on the director's Lot. Such vacancies shall be filled by the vote of the Owners as previously provided in this Section.

6.10 Compensation. Except as authorized by a vote of the Owners at a meeting thereof, the directors of the Association shall receive no compensation for their services in such capacity. A director, or other Owner or Occupant, or an entity in which the director or Owner has an interest, may, upon approval by the Board, be retained by the Association and reasonably compensated for goods and services furnished to the Association in an individual capacity provided (i) that the contract is approved by a majority vote of the Board, excluding the interested director, and (ii) that the director's interest is disclosed to the Board prior to approval. Directors may be reimbursed for out-of-pocket expenses incurred in the performance of their duties.

6.11 Fidelity Bond. Fidelity bonds or insurance coverage for unlawful taking of Association funds may be obtained and maintained as provided in the Declaration on all directors and officers authorized to handle the Association's funds and other monetary assets.

6.12 Standard of Responsibility. In performance of their duties, the directors are required to exercise the care required of a director by Section 317A.251 of the Minnesota Statutes.

SECTION 7 OFFICERS

7.1 Principal Officers. The Board shall elect the officers, who shall take office upon election. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may from time to time elect such other officers and designate their duties as in their judgement may be necessary to manage the affairs of the Association. A person may hold more than one office simultaneously, except

those of President and Vice President. All officers must be members of the Board. Only one Owner of an individual Lot may be an officer of the Association at any time.

7.2 Election. The officers of the Association shall be elected annually by the Board at its annual meeting and shall hold office at the pleasure of the Board.

7.3 Removal. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, with or without cause, and a successor elected, at any regular meeting of the Board, or any special meeting of the Board called for that purpose.

7.4 President. The President shall be the chief executive officer of the Association, and shall preside at all meetings of the Board and the Association. The President shall have all of the powers and duties which are customarily vested in the office of the president of a corporation, including without limitation the duty to supervise all other officers and to execute all contracts and similar obligations on behalf of the Association. The President shall have such other duties as may from time to time be prescribed by the Board.

7.5 Vice President. The Vice President shall take the place of the President and perform the duties of the office whenever the President shall be absent or unable to act. The Vice President shall also perform such other duties from time to time be prescribed by the Board.

7.6 Secretary. The Secretary shall be responsible for recording the minutes of all meetings of the Board and the Association. The Secretary shall be responsible for keeping the books and records of the Association, and shall give all notices required by the Governing Documents or the Act unless directed otherwise by the Board. The Board may delegate the Secretary's administrative functions to a managing agent; provided that such delegation shall not relieve the Secretary of the ultimate responsibility of the Secretary's duties.

7.7 Treasurer. The Treasurer shall have responsibility for all financial assets of the Association, and may be covered by a bond or insurance in such sum and with such companies as the Board may require. The Treasurer shall be responsible for keeping the Association's financial books, assessment rolls and accounts. The Treasurer shall cause an annual financial report to be prepared, subject to review by the Association's accountant(s). The Treasurer shall cause the books of the Association to be kept in accordance with customary and accepted accounting practices and shall submit them to the Board for its examination upon request. The Treasurer shall cause all moneys and other monetary assets of the Association to be deposited in the name of or to the credit of the Association in depositories designated by the Board, shall cause the funds of the Association to be disbursed as ordered by the Board and shall perform all other duties incident to the office of Treasurer. The Board may delegate the Treasurer's administrative functions to a managing agent; provided that such delegation shall not relieve the Treasurer of the ultimate responsibility of the Treasurer's duties.

7.8 Compensation. Except as authorized by a vote of the Owners at a meeting thereof, officers of the Association shall receive no compensation for their services in such capacity. An officer, or other Owner or Occupant may, upon approval by the Board, be retained by the Association and reasonably compensated for goods and services furnished to the Association in an

individual capacity; provided (i) that the contract is approved by a majority vote of the Board, excluding the interested party, and (ii) that the officer's interest is disclosed to the Board prior to approval. Officers may be reimbursed for out-of-pocket expenses incurred in the performance of their duties.

7.9 Standard of Responsibility. In performance of their duties, the officers are required to exercise: (i) if appointed by the Declarant, the care required of fiduciaries of the Owners, and (ii) if elected by the Owners, the care required of a direction by Section 317A.251 of the Minnesota Statutes. An Officer shall discharge his or her duties in good faith, in a manner the Officer reasonably believes to be in the best interest of the Association, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

SECTION 8 OPERATION OF THE PROPERTY

8.1 Assessment Procedures. The Association shall approve the annual budget of Common Expenses of the Association. The annual budget shall include all customary and necessary Common Expenses, including replacement reserves for the Association. The Board shall, at least thirty (30) days prior to the first day of the Association's fiscal year, prepare a budget of Common Expenses for the Association and assess and levy assessments for such Common Expenses against the Lots according to their respective Common Expense liability set forth herein. The annual budget shall include a general operating reserve, and an adequate reserve fund to cover replacement of the property which the Association is obligated to replace. Except as provided in these Amended Bylaws, Common Expense assessments shall be allocated equally among all Lots.

a. The Board, in its sole discretion, shall have the authority to levy assessments including: (1) annual assessments; (2) special assessments; (3) limited assessments; and (4) replacement reserve assessments as provided herein. The Board, in its sole discretion, shall fix the amount of all assessments against each Lot, levy assessments, and advise the Owners in writing of the assessment at least thirty (30) days prior to the date when the first installment thereof is due. Increases in assessments shall be determined by the Board in its sole discretion. The failure of the Board to timely levy an annual assessment shall not relieve the Owners of their obligation to continue paying assessment installments in the amount currently levied, as well as any increases subsequently levied.

b. If an annual assessment proves to be insufficient, the budget and assessment thereof may be amended, or a special assessment levied by the Board at any time subject to the limitations set forth herein. The levy shall be deemed to occur upon the date specified in the resolution which fixes the assessment.

c. The Board may levy limited assessments against only certain Lots as provided herein. Such assessments may be included in the annual assessments levied against affected Lots or may be levied separately during the year. Limited assessments shall include a

reduced assessment for Lots which are not improved with a completed dwelling. For such unimproved Lots, the amount of the limited assessment shall be an amount determined by the Board, not to exceed 90% of the amount of the assessment levied against Lots which are improved with a completed dwelling, not including replacement reserves levied under Section 8.1 (g) and 8.7.

d. The Association shall furnish copies of each budget on which the Common Expenses and the assessments are based to an Owner upon request of such person.

e. If any assessment or installment of an assessment becomes more than 30 days past due, then the Association may, upon 10 days' written notice to the Owner, declare the entire amount of the assessment immediately due and payable in full.

f. If Common Expense liabilities are reallocated for any purpose, annual assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

g. The replacement reserves required by these Amended Bylaws and as specified in Section 8.7 hereof shall be paid to the Association by each Owner of a Lot for each Lot owned by that Owner in accordance with the Association's annual budget approved pursuant to this Section and Section 8.7 regardless of whether an annual Assessment has been levied. Replacement reserves shall be paid for all Lots improved with a completed dwelling and with respect to any other Lot commencing as of the date that the structure and exterior of any building located within the Lot boundaries, excluding exterior finishing of the structure itself, are substantially completed.

h. "Common Expenses" shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation assessments, allocations to reserves and those items specifically identified as Common Expenses in the Governing Documents. Common Expenses shall include, but not be limited to, all expenses incurred in connection with maintenance, repair, replacement, management and operation of all property owned by the Association and all insurance and other operating expense incurred in connection with operation of the Association. The assessments levied by the Association shall, among other things, be used as follows:

- For the purpose of owning, managing and maintaining the Outlots A and B for the benefit of the members including but not limited to acquisitions, improvements, insurance, repairs, maintenance, payments of taxes and for the cost of labor, equipment and materials.
- For the purpose of maintaining the Draining Easement and Storm Water Retention Ponds which are shown on the plat of Windcliff.

In addition, the Board of Directors or the Association shall, for the Association itself, obtain and maintain at all times a policy or policies of general comprehensive liability insurance, covering injury, death or property damage suffered by any person whomsoever, in or on open spaces (Outlots A and B), said insurance to be in an amount deemed prudent and necessary by the Board

of Directors. The Board of Directors of the Association may obtain and maintain a policy or policies of insurance for itself, such insurance to be in amounts and provide such coverage as the Board of Directors may determine.

8.2 Payment of Assessments. Annual Assessments shall be due and payable in advance on the first day of each month, quarter, or beginning of the year or other period for which assessments are made, and special Assessments and limited Assessments shall be due when designated by the Board. Owners shall be personally liable for payment of assessments and such liability shall be joint and several where there are multiple Owners of the Lot. All Owners shall be absolutely and unconditionally obligated to pay the Assessments levied pursuant to the Governing Documents. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Lot, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. Any rights or claims alleged by an Owner may be pursued only by separate action. The Association may invoke the charges, sanctions and remedies set forth herein, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

8.3 Default in Payment of Assessments. If any Owner does not make payment on or before the date when an Assessment or installment thereof is due, subject to such grace periods as may be established, the Board may assess, and such Owner shall be obligated to pay, a late charge as provided herein for such unpaid Assessment or installment thereof, together with all expenses, including reasonable attorneys' fees and costs, incurred by the Board in collecting any such unpaid Assessment.

- a. If there is a default of more than thirty (30) days in payment of any Assessment, the Board may accelerate any remaining installments of the Assessment upon prior written notice thereof to the Owner, and the entire unpaid balance of the Assessment, together with all attorneys' fees, costs of collection and late charges, shall become due and payable upon the date stated in the notice unless all past due amounts, including attorneys' fees, late charges, costs of collection and fines, are paid prior to said date.
- b. The Board shall have the right and duty to attempt to recover all Assessments for Common Expenses, together with any charges, attorneys' fees, costs or expenses relating to the collection thereof. In addition, the Board shall have the right and duty to attempt to recover any and all collection or contingency fees or costs charged to the Association by a collection agency or other Person acting on behalf of the Association in collecting any delinquent amounts owed to the Association by an Owner or Occupant.
- c. Upon written request of an Owner, notice of a default of more than thirty (30) days in payment of any Assessment or installment of an Assessment for Common Expenses or any other default in the performance of obligations by the Owner shall be given in writing to such Owner.

d. The rights and remedies referred to herein shall in no way limit the remedies available to the Association by law.

8.4 Foreclosure of Liens for Unpaid Assessments. The Association has the right to foreclose a lien against a Lot for assessments imposed by the Association, as more fully described herein. A lien for assessments may be foreclosed against a Lot under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association shall have a power of sale to foreclose the lien pursuant to Chapter 580 of the Minnesota Statutes. In any foreclosure pursuant to Chapters 580, 581, or 582, the rights of the parties shall be the same as those provided by law, except (i) the period of redemption for Lot Owners shall be six (6) months from the date of sale or a lesser period authorized by law; (ii) in a foreclosure by advertisement under Chapter 580 the foreclosing party shall be entitled to costs and disbursements of foreclosure and actual attorney's fees incurred by the foreclosing parties notwithstanding the provisions of Section 582.01 Subdivision 1 and 1(a); (iii) in a foreclosure by action under Chapter 581 the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorney's fees as the court shall determine; and (iv) the amount of the Association's lien shall be deemed to be adequate consideration for the Lot subject to foreclosure, notwithstanding the value of the Lot. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Lot so acquired. The Owner and any other Person claiming an interest in the Lot, by acceptance or assertion of any interest in the Lot, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Lot, including an action to recover sums for which this Section creates a lien or taking a deed in lieu of foreclosure. This Section does not prohibit actions to recover sums for which the Association has a lien nor prohibit the Association from taking a deed in lieu of foreclosure or cancellation. A lien under this Section is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage encumbering the fee simple interest in the Lot, and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section shall not affect the priority of mechanic's liens. Notwithstanding the foregoing, if a first mortgage on a Lot is foreclosed, the first mortgage was recorded on or after the date of recording of this Declaration, and no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582 of the Minnesota Statutes, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage, a junior creditor, a junior lienholder redeeming from the foreclosure shall take title to the Lot subject to a lien in favor of the Association for the unpaid Assessments for Common Expenses levied against the Lot by the Association which became due, without acceleration, during the six months immediately preceding the end of the Owner's period of redemption. The Common Expenses shall be based upon the Association's then current annual budget. Notwithstanding, a Person who acquires title to a Lot by the cancellation of a contract for deed recorded on or after the date of recording of this Declaration or the voluntary conveyance of a Lot by deed in lieu of a foreclosure or cancellation of a contract for deed which is recorded on or after the date of recording of this Declaration shall take title to the Lot subject to a lien in favor of the Association for the unpaid assessments for Common Expenses levied against the Lot by the Association which became

due, without acceleration, during the six months immediately preceding the first day following expiration of the cancellation period or the date of the deed in lieu of cancellation or foreclosure.

8.5 Records. The Board shall cause to be kept at the registered office of the Association, and at such other place as the Board may determine, records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Owners of the Association, names of the Owners, and detailed and accurate records of the receipts and expenditures of the Association. With the exception of records that may be privileged or confidential, all Association records, including receipts and expenditures and any vouchers authorizing payments, shall be available for examination by the Owners for a proper purpose upon reasonable notice and during normal business hours. Separate accounts shall be maintained for each Lot setting forth the amount of the Assessments against the Lot, the date when due, the amount paid thereon and the balance remaining unpaid.

8.6 Enforcement of Obligations. All Owners and Occupants and their guests are obligated and bound to observe the provisions of the Governing Documents, the Rules and Regulations. The Association may impose any or all of the charges, sanctions and remedies authorized by the Governing Documents, the Rules and Regulations or by law to enforce and implement its rights to otherwise enable it to manage and operate the Association.

8.7 Replacement Reserves. The Association shall include in its annual budget replacement reserves projected by the Board to be adequate, together with past and future contributions to replacement reserves, to fund the replacement of the property which the Association is obligated to replace, subject to the following:

- a. The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the property as determined based upon the estimated remaining useful life of each component; provided that portions of replacement reserves need not be segregated for the replacement of specific components.
- b. Annual budgets need not include reserves for the replacement of components that have a remaining useful life of more than 30 years.
- c. The Association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year.
- d. The Association shall keep the replacement reserves in an account or accounts separate from the Association's operating funds, and shall not use or borrow from the replacement reserves to fund the Association's operating expenses, provided that this restriction shall not affect the Association's authority to pledge the replacement reserves as a security loan to the association.
- e. Subject to approval by (i) the Board, and (ii) Owners of Lots to which 51 percent of the votes in the Association are allocated, the Association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special Assessments or by Assessments levied under

Section 8.1(c) of this Declaration. The approval provided for in the preceding sentence shall be effective for no more than the Association's current and three following fiscal years, subject to modification or renewal by the same approval standards.

- f. Any surplus funds that the Association has remaining after payment of or provision for Common Expenses and reserves shall be (i) credited to the Lot Owners to reduce their future Common Expense Assessments or (ii) credited to reserves, or any combination thereof as determined by the Board.

SECTION 9 AMENDMENTS

These Amended Bylaws may be amended, and the amendment shall be effective, upon the satisfaction of the following conditions:

9.1 Approval. These Amended Bylaws may be altered, amended, or repealed by the Board as provided in the applicable provisions of Minnesota Statutes, Section 302A.181 as amended from time to time.

9.2 Effective Date; Recording. The amendment shall be effective on the date of approval by the required vote of the Owners and need not be recorded. If recorded, the amendment shall be recorded in the office of the recording officer for the county in which the Property is located.

SECTION 10 INDEMNIFICATION

The Association shall, to the extent the alleged liability is not covered by insurance, indemnify every individual acting in any official capacity on behalf of the Association, pursuant to the provisions of Minnesota Statutes 317A.521.

SECTION 11 MISCELLANEOUS

11.1 Notices. Unless specifically provided otherwise in the Act, the Declaration or these Amended Bylaws, all notices required to be given by or to the Association, the Board, the Association officers or to the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United

States mail; except that registrations pursuant to Section 2.2 shall be effective upon receipt by the Association. In addition, any notice required to be given by or to the Association, the Board, the Association Officers or to the Owners or Occupants may be given by a form of electronic communication consented to by the person to whom the notice is given in accordance with Section 317A.450 Subd. 5 of the Act (or any amendments thereto) and is effective when given. The notice is deemed given by: (i) facsimile communication, when directed to a telephone number at which the person has consented to receive notice; (ii) electronic mail, when directed to an electronic mail address at which the person has consented to receive notice, (iii) a posting on an electronic network on which the person has consented to receive notice, together with a separate notice to the person of the specific posting, upon the later of the posting or the giving of the separate notice; and (iv) any other form of electronic communication by which the person has consented to receive notice, when directed to the person. An affidavit of the Secretary of the Association that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit. Consent by a person to receive notice given by electronic communication may be given in writing or by authenticated electronic communication. Any consent so given may be relied upon until revoked by the person, provided that no revocation affects the validity of notice given before receipt of revocation of the consent.

11.2 Severability. The invalidity or unenforceability of any part of these Amended Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Amended Bylaws.

11.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way limit or proscribe the scope of these Amended Bylaws or the intent of any provision hereof.

11.4 Conflicts in Documents. In event of any conflict among the provisions of the Act, the Governing Documents or the Rules and Regulations, the Act shall control unless it permits the documents to control. As among the Declaration, Amended Bylaws and Rules and Regulations, the Declaration shall control, and as between the Amended Bylaws the Rules and Regulations, the Amended Bylaws shall control.

11.5 Waiver. No restriction, condition, obligation or provision contained in these Amended Bylaws 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.

11.6 No Corporate Seal. The Association shall have no corporate seal.

11.7 Fiscal Year. The fiscal year shall be as determined by the Board.

The undersigned hereby executes these Amended Bylaws and certifies that they were duly adopted by Windcliff Association, Inc., a non-profit corporation incorporated under the laws of the State of Minnesota, effective as of the date hereof.

EXHIBIT A TO AMENDED BYLAWS OF
WINDCLIFF ASSOCIATION
LEGAL DESCRIPTION OF PROPERTY

The property is legally described as follows:

Lots 1 through 29, Block 1 of WINDCLIFF SUBDIVISION, according to the Plat thereof on file and of record in the office of the Wabasha County Recorder.

AND

Lots 1 through 12, Block 2 of WINDCLIFF SUBDIVISION, according to the Plat thereof on file and of record in the office of the Wabasha County Recorder.

AND

Outlots A and B of WINDCLIFF SUBDIVISION, according to the Plat thereof on file and of record in the office of the Wabasha County Recorder.