

## BYLAWS

of the

Canaan Crossing Homeowners Association, Inc.

Dry Fork District, Randolph County, West Virginia

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### ARTICLE I GENERAL PROVISIONS

1. **Applicability.** Canaan Crossing Development (hereinafter "Canaan Crossing") shall be governed by the provisions of these Bylaws, which are promulgated pursuant to the requirements and provisions of Paragraph 8 of each of the Declarations of Protective Covenants and Restrictions for the four (4) sections comprising Canaan Crossing filed of record in the Office of the Clerk of the County Commission of Randolph County, West Virginia, and pursuant to the provisions of Article 3 of Chapter 36B, the Uniform Common Interest Ownership Act of West Virginia.

2. **Principal Office.** The Canaan Crossing Homeowners Association (hereinafter "Association") and its Executive Board shall be located in Canaan Crossing or at such other sites as designated from time to time by the Executive Board. The Association shall maintain a post office box or address to which members may send correspondence.

3. **Definitions.** The terms used in these Bylaws shall be given the meanings specified for such terms in the Uniform Common Interest Ownership Act (West Virginia Code, Section 36B-1-103).

**ARTICLE II  
HOMEOWNERS ASSOCIATION**

1. **Membership.** The Homeowners Association of Canaan Crossing shall be comprised of all owners of lots ("units") within Canaan Crossing. The name shall be the Canaan Crossing Homeowners Association, Inc. For all purposes the Association shall act merely as an agent for the unit owners collectively. The Association shall be responsible for managing the common property and shall be delegated the following powers, duties, and responsibilities:

(a) To adopt and amend Bylaws and Rules and Regulations as permitted by Paragraphs 8 through 10 of the various Declarations;

(b) To adopt and amend budgets for revenues, expenditures, and reserves, and to collect assessments for Common Expenses from unit owners;

(c) To hire and terminate managing agents, employees, agents, and independent contractors;

(d) To institute, defend, or intervene in litigation or administrative proceedings in its own name or on behalf of itself or two or more unit owners on matters affecting Canaan Crossing;

(e) To make contracts and to incur liabilities;

(f) To regulate the use, maintenance, repair, replacement, and modification of Common Elements;

(g) To cause additional improvements to be made as part of the Common Elements;

(h) To acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property;

(i) To grant easements, leases, licenses, and concessions through or over the Common Elements;

(j) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, to levy reasonable fines for violation of these Bylaws, and the Protective Covenants and Restrictions for the various sections of Canaan Crossing which are of record as aforesaid;

(k) To provide for the indemnification of its officers and Executive Board and to maintain directors and officers liability insurance;

(l) To exercise all other powers conferred by these Bylaws and the Protective Covenants and Restrictions of Canaan Crossing;

(m) To exercise any other powers necessary and proper for the governing and operation of the Association.

2. **Annual Meeting.** A meeting of the Association shall be held annually, at least sixty (60) days before the end of the calendar year, on such date as may be established by the Executive Board. Any business may be transacted at an annual meeting if proper notice of said meeting is given.

3. **Special Meetings.** Special meetings may be called by the President, a majority of the Executive Board, or upon the petition signed and presented to the Secretary by unit owners having not less than twenty percent (20%) of the aggregate percentage interests.

4. **Place of Meetings.** Meetings of the Association shall be held at a suitable place in Randolph County or Tucker County, West Virginia, as may be convenient to the unit owners and as may be designated by the Executive Board from time to time.

5. **Notice of Meetings.** Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Secretary shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each home or to any other mailing address designated in writing by the unit owner. The notice must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendments to these Bylaws, any budget changes, and any proposal to remove an officer or member of the Executive Board. Any proper business may be transacted at the annual meeting regardless of whether the same appeared on the agenda. No business shall be transacted at any special meeting except such business as shall be stated in the notice thereof unless all unit owners are represented in person or by proxy, and then only if consent to the transaction of such additional business is given by a majority of the votes represented.

6. **Adjournment of Meetings.** If at any meeting of the Association a quorum is not present, unit owners having a majority of the aggregate percentage interests at such meeting (in person or by proxy) may adjourn the meeting to a later time.

7. **Order of Business.** The order of business at all meetings of the Association shall be as follows:

- (a) Roll call (proof of quorum);
- (b) Proof of adequacy of notice of meeting;
- (c) Reading of the minutes of the preceding meeting;

- (d) Reports of officers;
- (e) Reports of committees;
- (f) Election of members of the Executive Board;
- (g) Unfinished business;
- (h) New business;
- (i) Adjournment.

At every annual meeting, the Treasurer shall be required to provide a complete report as to the financial matters of the Association and shall provide a written financial statement and report of assessments, receipts, disbursements, and other expenditures.

8. **Voting.** Each unit in Canaan Crossing is entitled to one vote at Association meetings. In the event of unit ownership by more than one person, all owners of record must decide among themselves how the vote is to be cast; conflicting votes by multiple owners will be excluded. No unit owner may vote at any meeting or be elected to the Executive Board if delinquent more than thirty (30) days in the payment of his assessment or any fine or penalty and the amount necessary to bring his account current has not been paid at the time of such meeting or election.

9. **Proxies.** A vote may be cast pursuant to a proxy duly executed by a unit owner. A proxy is void if it is not dated, or purports to be revocable without notice. A unit owner may revoke a proxy by giving notice of revocation to the person presiding over the meeting of the Association. A proxy terminates one year after its date unless it specifies a shorter term.

10. **Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy at the beginning of the meeting of unit owners owning twenty percent (20%) or more of the units shall constitute a quorum at all meetings of the Association.

11. **Conduct of Meetings.** The President shall preside over all meetings of the Association and the Secretary shall keep minutes and record in a minute book all resolutions adopted as well as a record of all transactions occurring thereat. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association unless such rules are in conflict with these Bylaws or the laws of the State of West Virginia.

### **ARTICLE III EXECUTIVE BOARD**

1. **Powers and Duties.** The Executive Board shall have all of the powers and duties necessary for the administration of the affairs of the Association as granted by these Bylaws, and may do all such acts and things as are not by Article 3, Section 103(b) of the Uniform Common Interest Ownership Act, the various declarations, or these Bylaws required to be exercised and done by said Association.

(a) In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Executive Board shall, on behalf of the Association:

- (1) Adopt and amend rules and regulations;
- (2) Adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments for Common Expenses from unit owners;
- (3) Hire and discharge managing agents and other employees, agents, and independent contractors;
- (4) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting Canaan Crossing;
- (5) Make contracts and incur liabilities;
- (6) Regulate the use, maintenance, repair, replacement, and modification of Common Elements;
- (7) Cause additional improvements to be made as a part of the Common Elements;
- (8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to the laws of the State of West Virginia;
- (9) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements and for services provided to unit owners;
- (11) Impose charges for late payments of Assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of these Bylaws, the protective covenants and restrictions, and the rules and regulations of the Association.
- (12) Impose reasonable charges for the preparation and recordation of resale certificates or statements of unpaid Assessments;
- (13) Cause to be placed or kept in effect liability insurance on Common Elements;
- (14) Provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance as desired;

(15) Assign its right to future income, including the right to receive Common Expense assessments, but only to the extent the laws of the State of West Virginia expressly so provide;

(16) Exercise any other powers conferred by these Bylaws;

(17) Exercise all other powers that may be exercised in the State of West Virginia by legal entities of the same type as the Association;

(18) Exercise any other powers necessary and proper for the governance and operation of the Association;

(19) Employ and retain such professionals and other experts whose services may reasonably be required to effectively perform these duties; and

(20) Borrow money when required in connection with any one instance relating to the operation, care, upkeep, and maintenance of the Common Elements; provided, however, that the consent of at least the holders of seventy five percent (75%) of the allocated votes in the Association, either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of Ten Thousand Dollars (\$10,000).

(b) The Executive Board is limited in its powers and duties as follows:

(1) The Executive Board may not amend these Bylaws.

(2) The Executive Board may not terminate the Association.

(3) The Executive Board may not elect members of the Executive Board or determine the qualifications, powers, and duties, or terms of office of members, but may fill vacancies in its membership for the unexpired portion of any term.

(4) The Executive Board may make alterations and improvements to the Common Elements without obtaining the prior consent of the unit owners if such alterations and improvements do not cost in excess of Five Thousand Dollars (\$5,000) in any consecutive twelve month period. Larger expenditures will require approval of the Association.

**2. Number and Term of Office.** The Executive Board shall consist of five (5) persons, all of whom shall be unit owners, and shall be elected by vote of the Association members. The Executive Board shall elect the officers. Executive Board members and officers shall take office upon election and serve a term of two (2) years.

3. **Election of Executive Board Members.** Members of the Executive Board shall be elected by a plurality of the votes cast at the Annual Meeting of the Association.

4. **Removal of Executive Board Members.** At any regular or special meeting duly called, any one or more of the members of the Executive Board may be removed by a two-thirds (2/3) vote of all persons present and entitled to vote provided a quorum is present.

5. **Vacancies.** Vacancies in the Executive Board caused by any reason other than the removal of a director by a vote of the Association shall be filled by a vote of a majority of the remaining Board members at a special meeting of the Executive Board held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Executive Board until the next annual meeting of the Association.

6. **Regular Meetings.** Regular meetings of the Executive Board may be held at such time and place (or by telephone) as shall be determined from time to time by a majority of the directors, but at least once every three months during each calendar year. Notice of regular meetings of the Executive Board shall be given in writing to each member, by hand delivery or mail, at least ten (10) days prior to the day named for such meeting.

7. **Special Meetings.** Special meetings of the Executive Board may be called by the President on three (3) business days notice to each member, given in writing by hand delivery, mail, or telegraph, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) members.

8. **Waiver of Notice.** Any member of the Executive Board may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member, in person or by telephone communication, at any meeting of the Executive Board shall constitute a waiver of notice by him of the time, place, and purpose of such meeting. If all members are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

9. **Quorum of Executive Board.** At all meetings of the Executive Board a majority of the board members shall constitute a quorum for the transaction of business, and the votes of a majority present at such a meeting at which a quorum is present shall constitute the decision of the Executive Board. A member of the Executive Board who participates in a meeting by means of telephone communication shall be deemed present at the meeting for all purposes.

**10. Compensation.** No Executive Board member shall receive any compensation from the Association for acting as such. No remuneration shall be accepted by the Executive Board from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, or otherwise; any discounts received shall benefit the Association.

**11. Liability.** Members of the Executive Board, officers, and members of the committees appointed by the Executive Board shall not be liable to the Association or any unit owner for any mistake of judgment, negligence, or otherwise, in excess of any amounts satisfied by insurance, except for fraud, embezzlement, or for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Executive Board members, officers, and committee members from and against all contractual liability to others arising out of contracts made on behalf of the Association unless any such contract shall have been made in bad faith, except to the extent that such liability is satisfied by liability insurance maintained for such Executive Board members and officers. Executive Board members and officers shall have no personal liability with respect to any contract made by them on behalf of the Association.

**12. Interest of Executive Board Members in Transactions.** Each member of the Executive Board shall exercise his powers and duties in good faith and with a view to the interests of the Association. No contract or other transaction between the Association and any Executive Board member, or between the Association and any corporation, firm, or association (including the Declarant) in which any of the Executive Board members are directors or officers or are pecuniarily or otherwise interested, will become void or voidable because any such member is present at the meeting of the Executive Board or because any such member is present at the meeting of the Executive Board or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subsections exists:

(a) The fact of the common directorate or interest is disclosed or known to the Executive Board or a majority thereof or noted in the minutes, and the Executive Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose;

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the unit owners, and the unit owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved, or executed.



Any interested Executive Board member may be counted in determining the presence of a quorum of any meeting of the Executive Board or committee thereof which authorizes, approves, or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such person were not such member or officer of such Association or not so interested.

**13. Managing Agent.** The Executive Board may employ a Managing Agent or Managing Agents at such compensation and benefits as may be established by the Executive Board.

(a) **Requirements.** The Managing Agent shall be a natural person or a bona fide business enterprise which manages common interest residential communities. The Managing Agent shall be a person, or shall employ persons, possessing a high level of competence in the technical skills necessary to proper management of the community. The Managing Agent must be able to advise the Executive Board regarding the administrative operation of the community and shall, when authorized by the Executive Board or Association, employ personnel knowledgeable in the areas of accounting, contract negotiation, insurance, and labor relations.

(b) **Duties.** The Managing Agent shall perform such duties and services as the Executive Board or the Association shall direct. Such duties and services may include, without limitation, the delegable duties of the Executive Board. The Managing Agent shall perform the obligations, duties, and services and the maintenance of reserve funds in compliance with the provisions of these Bylaws and the Uniform Common Interest Ownership Act of West Virginia.

(c) **Standards.** The Executive Board shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise by the Executive Board:

(1) The accrual method of accounting shall be employed.

(2) Expenses required by these Bylaws to be charged to more than one (1) but less than all unit owners shall be accounted for separately.

(3) Cash accounts of the Association shall not be commingled with any other accounts.

(4) No remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association whether in the form of commissions, finder's fees, service fees, or otherwise; any discounts received shall benefit the Association.

(5) Any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Executive Board.

(6) A monthly financial report shall be prepared for the Association.

(d) **Limitations.** The Executive Board may employ a Managing Agent for a term not to exceed one (1) year. Any contract with the Managing Agent must provide that it may be terminated without payment of a termination fee, without cause on no more than ninety (90) days written notice and with cause on no more than thirty (30) days written notice. Upon a vote of a majority of the percentage interests present at a meeting of the Association, a Managing Agent may be removed in accordance with this subsection notwithstanding the desire of the Executive Board to the contrary.

#### **ARTICLE IV OFFICERS**

1. **Designation.** The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Executive Board from its own membership.

2. **Removal of Officers.** A majority of the Executive Board may remove or accept the resignation of any officer and elect a successor at any regular or special meeting of the Executive Board.

3. **President.** The President shall be the chief executive officer of the Association; preside at all meetings of the Association and of the Executive Board; have general active management of the business of the Association subject to the control of the Executive Board; see that all orders and resolutions of the Executive Board are carried into effect; and appoint committees from among the unit owners to assist in the conduct of the affairs of the Association.

4. **Vice President.** The Vice President shall assist the President and take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act.

5. **Secretary.** The Secretary shall keep the Minutes of all meetings of the Association and of the Executive Board; have charge of such books and papers as the Executive Board may direct; give or cause to be given all notices required to be given by the Association; and in general, perform all the duties incident to the office of Secretary.

6. **Treasurer.** The Treasurer shall be responsible for Association funds; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all

required financial data including the annual budget; deposit all monies in the name of the Executive Board or the Association in such depositories as may from time to time be designated by the Executive Board; and in general, perform all the duties incident to the office of Treasurer.

7. **Execution of Documents.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association for expenditures or obligations in excess of Five Thousand Dollars (\$5,000) shall be executed by two members of the Executive Board, including the Treasurer.

8. **Compensation of Officers.** No officer shall receive any compensation from the Association for acting as such.

#### **ARTICLE V INSURANCE**

1. The Association shall maintain, to the extent reasonably available, liability insurance, including medical payments insurance, in limits of not less than \$300,000/\$1,000,000 and thereafter, in an amount determined by the Executive Board, so as to cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements.

2. If the insurance described in section (1) is not reasonably available, the Association shall promptly cause notice of that fact to be given by U.S. mail to all unit owners. The Association may carry any other insurance it considers appropriate to protect the Association or the unit owners.

3. Insurance policies carried pursuant to section (1) must provide that:

(a) Each unit owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;

(b) The insurer waives its right to subrogation under the policy against any unit owner or member of his household;

(c) No act or omission by any unit owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

**ARTICLE VI  
COMPLIANCE AND DEFAULT**

1. **Relief.** Each unit owner shall be governed by, and shall comply with, all of the terms of these Bylaws, the protective covenants and restrictions, and the laws of the State of West Virginia. In addition to the remedies provided in Section 36B-3-115 of the Uniform Common Interest Ownership Act, a default by a unit owner shall entitle the Association, acting through its Executive Board, to the following relief:

(a) **Additional Liability.** Each unit owner shall be liable for the expense of all maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness or the act, neglect, or carelessness of any member of his family or his employees, agents, tenants, or licensees or any occupant permitted by such owner to occupy his unit, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Executive Board. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy, or abandonment of any unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(b) **Costs and Attorneys' Fees.** In any proceedings arising out of any alleged default by a unit owner, his family members, or his employees, agents, tenants, or licensees, or any occupant permitted by a unit owner to occupy his home, the prevailing party shall be entitled to recover the costs of such proceeding and such Attorneys' fees as may be determined by the Court to be reasonable.

(c) **No Waiver of Rights.** The failure of the Association, the Executive Board, or of a unit owner to enforce any right, provision, covenant, or condition which may be granted shall not constitute a waiver of the right of the Association, the Executive Board, or the unit owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies, and privileges granted to the Association, the Executive Board, or any unit owner pursuant to any term, provision, covenant, or condition of the Declaration, Bylaws, the Uniform Common Interest Ownership Act, or Rules and Regulations of the Association's Executive Board shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration, Bylaws, Rules and Regulations, or the Uniform Common Interest Ownership Act, or at law or in equity.

(d) **Interest.** In the event of a default by any unit owner in paying any sum assessed against his unit other than for Common Expenses which continue for a period in excess of thirty (30) days, interest at a rate not to exceed eighteen percent (18%) per annum

may be imposed in the discretion of the Executive Board on the principal amount unpaid from the date until paid.

(e) **Abating and Enjoining Violations by Lot Owners.** The violation of any of the Rules and Regulations adopted by the Executive Board, the breach of any Bylaw contained herein or the breach of any of the protective covenants and restrictions shall give the Executive Board the right, in addition to any other rights set forth in these Bylaws: (i) to enter the unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass; (ii) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; and/or (iii) to levy reasonable fines in accordance with Rules and Regulations promulgated which establish fines and the various types of violations for which fines may be imposed.

(f) **Legal Proceedings.** Failure to comply with these Bylaws and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Executive Board, or, if appropriate, by any aggrieved unit owner and shall not constitute an election of remedies.

## **ARTICLE VII ASSESSMENTS AND LIENS**

1. **Assessment for Common Expenses.** Assessments must be made at least annually, based on a budget adopted at least annually, by the Association.

(a) Any past due Common Expense assessment bears interest at the rate established by the Association not exceeding eighteen percent (18%) per annum.

(b) To the extent reasonably determinable, any Common Expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited.

(c) Assessments to pay a judgment against the Association may be made only against the units in Canaan Crossing at the time the judgment was entered, and in proportion to their Common Expense liability.

(d) If any Common Expense is caused by the misconduct of any unit owner, or his invitees, lessees, or tenants, the Association may assess that expense exclusively against his unit.

**2. Lien for Assessments.** The total annual assessment of each unit owner for Common Expenses or any special assessment, or any other sum duly levied, including without limitation, fines, interest, late charges, etc., made pursuant to these Bylaws, is hereby declared to be a lien levied against the unit of such unit owner, which lien shall, with respect to annual assessments, be effective on the first day of each calendar year and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than seven days after delivery to the unit owner of notice of such special assessment or levy. The Executive Board may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(a) The Association has a lien on a unit for any assessment levied against that unit or fines imposed against a unit owner from the time the assessment or fine becomes due. Fees, charges, late charges, fines, and interest are enforceable as assessments.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) a first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (ii) liens for real estate taxes and other governmental assessments or charges against the unit. The lien is also prior to all security interests described in clause (i) above to the extent of the Common Expense assessments based on the periodic budget adopted by the Association which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanic's or materialman's liens, or the priority of liens for other assessments made by the Association. The lien under this section is not subject to the provisions of homestead or other like exemptions.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

(d) This section does not prohibit actions to recover sums for which this Article creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(e) A judgment or decree in any action brought under this Article must include costs and reasonable attorneys' fees for the prevailing party.

(f) The Association, upon written request, shall furnish a unit owner a statement setting forth the amount of unpaid assessments against the unit. The statement must be in recordable form. The statement must be furnished within ten business days after receipt of the request and is binding on the Association, the Executive Board, and every unit owner.

(g) For the purpose of perfecting and preserving its lien, the Association shall give notice to the unit owner by registered or certified mail, return receipt requested, and in a form reasonably calculated to inform the owner of his liability for payment of the assessment. The lien shall be discharged as to subsequent purchasers for value without notice unless the Association shall cause to be recorded a notice of the lien in the Office of the Clerk of the County Commission of Randolph County, West Virginia. The notice shall contain:

- (1) A legally sufficient description of the unit;
- (2) The name or names of the Owners of the unit;
- (3) The amount of unpaid Assessments due, together with the date when each became due; and
- (4) The date of recordation.

(h) The aforesaid Clerk of the County Commission in whose office the notice is recorded shall index the notice in the appropriate lien books in the name of the unit owners as debtors and of the Association as creditor. The cost of recordation shall be assessed against any unit owner found to be delinquent.

(i) Upon payment of the assessment, the Association shall execute a written release of the lien in the manner prescribed in West Virginia Code, Section 38-12-1. This release shall be recorded at the expense of the debtor in the aforesaid Clerk's Office wherein the notice of the lien was filed.

### 3. Other Liens.

(a) Except as provided in subsection (b) below, a judgment for money against the Association (if recorded) is not a lien on the Common Elements, but is a lien in favor of the judgment lien holder against all of the units in Canaan Crossing at the time the judgment was entered. No other property of a unit owner is subject to the claims of creditors of the Association.

(b) If the Association has granted a security interest in the Common Elements to a creditor of the Association, the holder of that security interest shall exercise its rights against the Common Elements before its judgment lien on any unit may be enforced.

(c) A judgment against the Association must be indexed in the name of the Association; and when so indexed, provide notice of the lien against the units.

**ARTICLE VIII  
BOOKS, RECORDS, AND BUDGETS**

1. The Association shall keep books and records sufficient to comply with its duties of assessing, managing, and disbursing Association assets and to permit the Association to provide, upon request and for a Fifty Dollar (\$50) fee relative to each unit, a Resale Certificate setting forth information required by a unit owner selling to lawfully reconvey his unit pursuant to West Virginia Code, Section 36B-4-109, or as such requirements may from time to time be amended. All financial and other records must be made reasonably available for examination by any unit owner and his authorized agents.

2. All books, records, and budget documents shall be maintained in an orderly manner and in compliance with generally accepted accounting standards applicable to common interest communities established in the State of West Virginia for dwelling and recreational purposes.

3. At least thirty (30) days prior to the Annual Meeting, the Executive Board shall adopt a proposed budget for the Association for the next calendar year. A summary version of said budget shall be provided to all unit owners at least ten (10) days prior to the Annual Meeting. Approval by a majority of unit owners in attendance at the Annual Meeting, including proxies, shall be sufficient for ratification of the budget. In the event of rejection, the periodic budget last ratified must be continued until such time as a new budget is presented and ratified.

4. The Executive Board shall maintain such reasonable reserves for working capital, operations, contingencies, and replacements as may be deemed necessary. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, the Executive Board may at any time levy a further assessment, which shall be assessed against the unit owners according to their respective percentage interests, and which may be payable in a lump sum or in installments as the Executive Board may determine. The Executive Board shall serve notice of any further assessment on unit owners by a statement in writing, giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than ten (10) days after the delivery of such notice of further assessment. All unit owners so notified shall be obligated to pay the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in Article VII hereof.



**ARTICLE IX  
COMMITTEES**

1. The President of the Association shall establish committees and appoint unit owners to serve on such committees to assist in the conduct of the affairs of the Association. Committee members shall have no authority to act on behalf of the Association except as expressly granted by the President with the approval of a majority of the Executive Board. Committee members shall serve on a voluntary basis, without compensation by the Association, and may be removed by written notification from the President.

2. **Architectural Standards Committee.** The President shall establish a permanent Architectural Standards Committee to help assure that Canaan Crossing shall be maintained in a manner providing for visual harmony and consistent design for the benefit of all Association members.

(a) The Committee shall be composed of three (3) Association members appointed by the President for terms of two (2) years.

(b) Committee members shall be subject to removal at any time by the President, and vacancies shall be filled promptly by appointment by the President.

(c) The Committee shall be responsible for monitoring compliance with the Declaration of Protective Covenants and Restrictions, and shall make recommendations for action to the Executive Board. Such recommendations shall not be binding on the Executive Board, but shall merit careful consideration.

(d) The Committee shall endeavor to maintain frequent contact with unit owners, to receive suggestions and reports of violations and to pass along timely recommendations to the Executive Board.

(e) Until such time as Canaan Crossing becomes substantially occupied, the Committee shall liaise closely with the Developer to review building proposals submitted for approval by unit owners.

**ARTICLE X  
RATIFICATION AND AMENDMENT**

1. These Bylaws may be ratified, modified, or amended upon the affirmative vote of at least sixty-seven percent (67%) of the percentage interests present, in person or by proxy, at a meeting of the Association after the establishment of a quorum. All amendments shall be prepared, executed, and recorded by the Secretary of the Association.

**ARTICLE XI  
NOTICES**

1. All notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid, or if notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid.

**ARTICLE XII  
MISCELLANEOUS**

1. **Captions.** The captions herein are inserted only for convenience and reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.


2. **Construction.** The Association Instruments are intended to comply with all of the laws of the State of West Virginia and shall be so interpreted and applied.

3. **Fiscal Year.** The Association's Fiscal Year is the Calendar Year.


IN WITNESS WHEREOF these Bylaws are made and executed on this 31<sup>st</sup> day of August 1995.

DEVELOPER:

CANAAN CROSSING CORPORATION,  
a West Virginia corporation

By:   
JOHN B. LOUNSBURY  
Its President

ASSOCIATION:

By:   
GARY L. HYDE  
Its President

By:   
ALEX HONCHARIK  
Its Secretary