

**MARCEL LAKE ESTATES  
PROPERTY OWNERS ASSOCIATION,  
INC.  
M.L.E.P.O.A., Inc.**

**BY – LAWS**

REVISED BY THE BY-LAWS COMMITTEE  
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Approved 08/31/2013 at annual meeting

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### ARTICLE I – Definitions

**Section 1.** The following terms used in these By-Laws shall be defined as follows, unless the context clearly indicates otherwise:

**“Association”** means the Marcel Lake Estates Property Owners Association, Inc., (“M.L.E.P.O.A, Inc.”) a Pennsylvania non-profit corporation.

**“Association Fees”** means all obligations levied by the Board on the members of the Association including, but not limited to, obligations under the Declaration, annual dues, assessments, other fees, permit fees, and fines.

**“Board”** means the Board of Directors of the Association elected pursuant to provisions of the Declaration and of these By-Laws.

**“Building Code”** means rules and regulations applicable to construction or

improvements of structures on any Lot, as set forth in the Declaration and as may be adopted by a majority of the Board and amended from time to time by the Board.

**“By-Laws”** means these By-Laws of the Association.

**“Common Area”** means any and all real property designated as such on any Plat and real property acquired by the Association, with all improvements which may be at any time constructed thereon, including, but not limited to roads, recreational and community facilities, lakes and parks.

**“Community Manager”** and **“Manager”** means an employee or independent contractor who is the Board-appointed individual designated as Community Manager.

**“Declaration”** means a Declaration of Restrictive Covenants, dated January 29, 1971, made by the Declarant and recorded on February 1, 1971, in the Office for the Recording of Deeds in and for Pike County, in Book 245 page 256 and dated March 31, 1971 and recorded April 23, 1971 in Book 247 page 310 with respect to the Development, and as same may have been amended or supplemented from time to time by the Declarant as provided in the Declaration.

**“Declarant”** means the All-American Realty Company., Inc., a Pennsylvania corporation, its successors and assigns, as set forth in the Declaration.

**“Development”** means all of the real property comprising Marcel Lake Estates, located in Delaware Township, Pike County, Pennsylvania, as shown on the Plats as provided in the Declaration, including any real property annexed thereto as provided therein.

**“Household”** means one or more persons, each related to the other by blood, marriage or legal adoption, or a group of adult persons, not so related, who, in each instance, regularly and customarily reside together in the same house as a principal residence.

**“Lot”** means any numbered, named or lettered tract of real property with such boundaries as are shown on a recorded Plat.

**“Member In Good Standing”** means, collectively, an Owner who has met all of the financial obligations of the Association and the associate members, as defined in Article II, Section 3 herein, residing in the same house of such Owner.

**“Owner”** means:

Any person, or persons, including Declarant who hold(s) fee simple title to any Lot; and

Any person, or persons, who have contracted to purchase fee simple title to a Lot pursuant to a written agreement, in which case the seller under said agreement shall cease to be an “Owner” with respect to such Lot, while said agreement is in effect.

**“Renter”** means a person or persons who occupy a house on a Lot in the Development

under a written agreement with a member by which such person is given the legal right to occupy the house for a period of not less than one year, unless otherwise approved by the Board, provided such persons have registered with the Association and the applicable fees for such registration have been paid. All rentals are to be approved by the board and absolutely NO multiple rental properties per owner. No daily, weekly, bi-weekly or month to month rental allowed.

**“Social Guests”** means a person or persons who are visiting a member for non-commercial purpose for a limited period of time and who are not compensating the Member for rent relative to such visit.

**“Plat”** means a final subdivision map with respect to the Development, as recorded in the Office for the Recording of Deeds in and for Pike County. The term “Plats” shall mean all of final subdivision maps of the Development from time to time identified thereon as Plat Maps of Marcel Lake Estates, including any additions or revisions thereto.

**“Reserved Area”** means any and all of the real property designated as such on a Plat, ownership of which may be retained by Declarant and as conveyed to the Declarant’s successors and assigns and/or M.L.E.P.O.A, Inc., and which may be put to such uses as Declarant shall determine, including, but not restricted to, future subdivision or associated commercial enterprises of any type or kind whatsoever, as provided in the Declaration.

**“Road”** means any and all rights of ways, including but not limited to, streets, roads, lanes, cul-de-sacs and avenues designated on a Plat for use, in common with others for vehicular traffic.

**“Rules and Regulations”** means the rules and regulations, as may be adopted by a majority of the Board and amended from time to time by the Board.

**“Single Family Dwelling”** means a residential dwelling for one or more persons, each related to the other by blood, marriage or legal adoption, or a group of persons not so related, together with his/her domestic servants, maintaining a common household in such dwelling.

**“Utility Facilities”** means all property, real, personal or mixed, acquired or constructed by Declarant or Association and used or useful in connection with providing water supply services, sanitary sewage collection and disposal service and electric service to property within the Development, or providing such other services (including cable television service) as shall be determined by the Declarant or Association to be useful or necessary to property within the Development.

## **ARTICLE II – Association Membership**

**Section 1.** There shall be one class of voting members of the Association.

**“Class A”.** The Class A members shall be all Owners, excluding Declarant, of

any Lot within the Development (herein the “member” or “members”). Class A members shall be entitled to one vote, regardless of the number of Lots owned, with respect to all matters required hereby, or by the Declaration to be voted upon by members of the Association. In the event of joint ownership of a Lot or Lots, only one (1) vote may be cast. Ballots will be mailed as follows: two envelopes will be mailed to each deeded property owner; one envelope will contain the ballot; the second envelope, which will be used to return the ballot to the Association, will contain the return address of the deeded property owner and will be logged in and counted as a vote.

**Section 2.** Each Owner shall, by reason of ownership of a Lot, become a member of the Association.

**Section 3.** If not otherwise a voting member, each of the following persons shall be associate members of the Association entitled to all of the rights and privileges of membership in the Association, other than the right to vote.

Social Guests of an Owner and business invitees of Declarant

Renters of an Owner, members of their households and their Social Guests

**Section 4.** Members and associate members in good standing will receive a license to use the Common Areas subject to provisions of the Declaration and subject to the Rules and Regulations as may be established by the Board.

**Section 5.** The Board will suspend the voting rights, license to use Common Areas and any other rights of any member or associate member for:

Any period during which any Association Fees or other financial obligation of a member, as provided in the Declaration or By-Laws, remain unpaid;

The period of any continuing violation by such member of provision of the Declaration, these By-Laws, the Rules and Regulation or the Building Code, after the existence thereof shall have been declared by the Board; and

A period to be determined by the Board for repeated or serious violations of the provisions of the Declaration, these By-Laws, the Rules and Regulations or the Building Code.

**Section 6.** Disciplinary Procedures – A Disciplinary Committee made up of three (3), five (5), seven (7) or nine (9) members, and one (1) non-voting Board member, may be established by the Board to hear and advise on disciplinary cases. The Disciplinary Committee shall select one of its members to serve as Chairperson of the Committee.

The procedure to be followed by the Disciplinary Committee is as follows:

A member may request a Disciplinary Hearing if they dispute a warning/fine for a violation of Codes and/or Rules and Regulations within ten (10) days of such notice being received.

The Director of Code Enforcement/Rules & Regulations shall form a panel for a hearing. All parties have the right to be represented by counsel and to present evidence. The Disciplinary Committee will give all parties at least thirty (30) days’ notice of the hearing, which will be set no later than ninety (90) days after the complaint is filed. After the hearing the Committee may deliberate in private session.

The Committee Chairperson, after such hearing, will report the findings and recommendations of the Committee to the Board within thirty (30) days.

The Board will then review the findings and recommendations of the Disciplinary Committee at its next regularly scheduled meeting and by an affirmative vote of the majority of its members, the Board may affirm, modify, or reject all or any part of the findings and recommendations of the Committee.

The Board may, by affirmative vote of the majority of its members, impose such sanctions or fines on the accused member or associate member as it finds in its sole discretion is warranted, including but not limited to:

Requiring the accused member to provide reasonable reparation;

Suspending the privileges of the member or associate member for a period of time as the Board may deem just when the misconduct is of a repeated nature and/or is such as to be considered disorderly, injurious, or hostile and against the best interest of the Association and its members. Failure to make reparations may be deemed sufficient ground for the suspension of the member or associate member;

Imposition of a fine according to the Rules and Regulations fee schedule, plus reparations;

Authorizing the Director of Code Enforcement/Rules & Regulations to report the decision of the Board to the accused in writing.

Any and/or all of the above.

The accused member or associate member shall have the right, within ten (10) days of receipt of the notice of the decision of the Board, to appeal in writing to the Board for a reconsideration of its decision. The appeal will be considered by the Board. In considering the appeal, the Board will limit its inquiry to a review of the regularity of the proceedings, whether or not they were conducted in good faith, and whether or not the accused was accorded a full fair hearing. In its sole discretion the Board may, for good cause shown on such appeal, modify the sanctions previously imposed.

### **ARTICLE III - Purposes**

The Association is incorporated under the Non-Profit Corporation Law of the Commonwealth of Pennsylvania for the following purposes:

To promote the health, safety and welfare of the residents within the Development and any additions thereto as may hereafter be brought within the jurisdiction of the Association for this purpose.

To perform all of the duties and obligations of the Association as set forth in the Declaration:

To fix, levy, collect and enforce payment by any lawful means, all Association Fees, charges or assessments pursuant to the terms of the Declaration; to pay all expenses incident to the conduct of the business of the Association;

To acquire (by gift, purchase, or otherwise), own, hold, improve, build on, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association.

To perform such other acts as may be permitted by law under the Non-Profit Corporation Law.

### **ARTICLE IV – Evidence of Membership and Transfer**

**Section 1.** Adequate records will be maintained by the Association, showing the names of the members of the Association and the date of membership as required by the law.

**Section 2.** It will be the responsibility of all members to notify the Association in writing of any change in their mailing address. All notices required to be provided under the Declaration or these By-Laws will be deemed to have been validly given if mailed to the last address provided by the member in writing to the Association.

**Section 3.** When a person(s) ceases to be an Owner, such person's membership shall cease, but such person shall remain liable for all Association Fees or other obligations incurred pursuant to provisions of the Declaration or these By-Laws, prior to the giving of written notice to the Association that such person is no longer an Owner.

**Section 4.** Voluntary Conveyance – All voluntary transfer and conveyances of any Lot will be recorded with the Association office and no transfers will be accepted unless all delinquent fees, assessments, fines and other charges are paid at or before the time of transfer. The grantor and grantee of Lots will be jointly and severally liable for all unpaid fees, assessments, fines and other charges pertaining to the Lot up to the date of conveyance; thereafter the grantee will be responsible for any new fees, assessments, fines, and other charges. Any unpaid fees, assessments, fines and other charges will constitute a lien on the Lot. The Association will charge a transfer fee, as set by the Board, to accept and record the transfer of any Lot. The grantee will complete all required transfer documents, including providing the Association with the grantee's mailing address to which all notices required by these By-Laws will be sent.

## **ARTICLE V – Meetings of Members**

**Section 1.** Any meeting of the members of the Association will be held in the Commonwealth of Pennsylvania at such place therein as may be stated in the notice of such meeting.

**Section 2.** The annual meeting of the Association will be held on the Saturday after Labor Day weekend of each year commencing with the year 2016, unless circumstances, as determined by the majority of the Board members, preclude that date, in which case an alternate date will be selected by the Board.

**Section 3.** Special meetings of the Association may be called by the Board at any time in the manner herein provided. A special meeting must also be called upon written petition of at least thirty-five (35) members-in-good-standing of the Association. Such petition will set forth the purpose of the special meeting.

**Section 4.** Written notice of the place, date and hour of membership meetings, and in the case of special meetings, the purpose or purposes for which the meeting is called, will be delivered not less than fifty (50) calendar days before the date of the meeting, either personally, or by mail, to each member in good standing. If mailed, such notice will be deemed to have been delivered when deposited in the United States mail, addressed to the member at his/her address as it appears on the records of the Association, with the postage prepaid; or such notice may be published in any newspaper or publication printed under the auspices of the Association and distributed generally among the members of the Association. At a special meeting, no business

shall be conducted except that stated in the notice of said meeting.

**Section 5.** A quorum at either a special meeting or the annual meeting shall require at least twenty-one (21) votes in good standing of the Association be present. In the event of joint ownership of a Lot or Lots, only one (1) vote will count toward the quorum. A majority of the votes entitled to be cast at any meeting, at which a quorum is present, will be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by the Declaration or By-Law.

**Section 6.** Matters arising (regarding conduct of meetings only) that are not specifically addressed by these By-Laws will be handled in the manner provided in the most current edition of Robert's Rules of Order.

## **ARTICLE VI – The Board of Directors**

**Section 1.** The Board will:

Manage and control the affairs of the Association.

Designate a banking institution or institutions as depository for the Association's funds; and the officer

or officers authorized to make withdrawals therefrom and to execute obligations on behalf of the Association.

c) Borrow money, mortgage, pledge, and deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debt incurred. All borrowings to meet operating expenses must be approved by the Board. No borrowing shall be made to meet operating expenses unless said borrowing can be liquidated by reasonable expectations of receipt of Association fees outstanding at the time of such borrowing.

d) Dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be required by the Board.

e) Participate in mergers and consolidations of other non-profit corporations organized for the same purpose or annex additional residential property and Common Area.

Have and exercise any and all powers, rights, and privileges which a non-profit corporation may have under the Laws of the Commonwealth of Pennsylvania, whether now existing or hereafter created.

Perform other acts the authority for which has been granted herein by the Declaration or By Laws.

Enforce and cause the Association and its members to perform and to abide by provisions of the Declaration.

Adopt such rules and regulations relating to the use of Association property, and sanctions for non-compliance thereof, as it may deem reasonably necessary for the best interest of the Association and its members.

Cause the Association to employ sufficient personnel to adequately perform the responsibilities for the Association.

Adopt reasonable rules of order for the conduct of the meetings of the Association.

Establish committees of the Association and appoint members thereof. It may assign to such committees such responsibilities and duties consistent with the provisions of the Declaration, these By-Laws or with the law as it may deem appropriate.



The Board shall, prior to March 31st of each year, adopt an operating budget and establish and levy the annual assessment fee for the following year in accordance with the Declaration.

Adopt such building or construction rules and regulations relating to construction or improvement of structure in the Development, and sanctions for non-compliance thereof, as it may deem reasonably necessary for the best interest of the Association and its members and consistent with the Declaration.

**Section 2.** The Board shall consist of nine (9) members. There shall be five (5) directors and four (4) officers.

**Section 3.** The members of the Board will serve alternating terms of two (2) years or until their successors have been elected and qualified. As a means of establishing the alternating terms in 1986, the President, Treasurer, and two (2) Directors shall be elected for two (2) year terms The Vice-President, Secretary, and three (3) Directors shall be elected to serve for a one year term. Board members may serve any number of consecutive terms in any position. The President or Vice-President, however, must have served on the Board in any position, at least one full year, prior to being elected President.

**Section 4.** Board members shall be citizens or legal residents of the United States and must be deed-holding members in good standing for at least one year prior to election.

**Section 5.** The election of Directors and Officers will be solely by written ballot. The ballot will describe the vacant seat to be filled and the names of those candidates seeking office, as nominated as here and after provided. Such ballots will be prepared and mailed by the Secretary, to each member in good standing. Such ballots will be deemed to have been delivered when deposited in the United States mail, addressed to the member at his/her address as it appears on the records of the Association, with the postage prepaid. Ballots will be mailed as follows: two envelopes will be mailed to each deeded property owner; one envelope will contain the ballot; the second envelope, which will be used to return the ballot to the Association, will contain the return address of the deeded property owner and will be logged in and counted as a vote. One vote per property owner, regardless of the amount of property owned. The ballots will be mailed to the members at least thirty (30) days prior to the annual meeting. The Directors will establish, by resolution, the date for the return receipt of the ballots. Only those ballots received by such date shall be validated and counted.

The candidates receiving the largest number of votes will be elected and the results announced at the annual membership meeting. Ballots will be kept in the Association office for a period of two (2) years and may be reviewed by any Member in good standing. After the two (2) year period all ballots may be destroyed.

**Nominating Committee.** The President will appoint a Nominating Committee at least three (3) months in advance of the election. The Nominating Committee will recommend to the membership, in writing, a slate of Officers and Directors at least forty (40) days in advance of the election.

A member-in-good-standing may seek nomination by presenting to the Nominating Committee a petition signed by fifteen (15) members-in-good-standing. For this purpose, only one member, regardless of the number of Lots owned, may qualify to sign the nominating petition.

Members of the Nominating Committee may not nominate a family member to

serve on the Board. If a family member is nominated, then it is mandatory that the Committee member resign from the Nominating Committee immediately. The Nominating Committee will consist of a Board Member and at least three (3) Committee Members. The Board member will vote only to break a tie. Resumes for any individual running for the Board will be published and available for public viewing as submitted and reviewed by the Secretary and candidate for accuracy, and mailed with the ballot. Only one side of an 8-1/2 x 11 typewritten sheet of paper will be accepted.

**Section 6.** The Board will meet at such intervals as it shall determine from time to time. Special meetings of the Board can be called by the President or a majority of the Board on three (3) days' notice and will be held at such place as the call or notice of the meeting designates. Notice of a special meeting may be given in writing or orally or waived by the majority of the Board in writing. After adoption of a resolution setting forth the times of the regular meetings, no notice of such meeting will be required, or waived, but notice of special meetings of the Board will be given.

**Section 7.** Unless prohibited by law, any action which may be taken by the Board may be taken without a meeting if authorized by written consent of all Board members, signed by a majority of the Board, and filed with the President/Secretary and read into the record at next open Board Meeting.

**Section 8.** A majority of the Board will constitute a quorum to transact business of the Board, and the act of the majority of the Board members present at any meeting shall be deemed to be an act of the Board.

**Section 9.** If a vacancy or vacancies should occur among the Officers and/or Directors between annual meetings, the vacancy, or vacancies will be filled by

Special election

Appointment by the remaining board members at a special meeting for that purpose

Appointing the next candidate in the list from the prior election in order of vote count.

The president will appoint an acting Secretary, for each meeting, if the position remains vacant.

**Section 10.** Only one member of a Household may serve as a member of the Board at any one time.

**Section 11.** A Board member, with an unexpired term, must resign from his/her position to run as a candidate for another office of the Board. Said resignation will become effective at the annual meeting.

**Section 12.** Any Board member who is absent, without good cause or reason, from three (3) consecutive Board meetings or four (4) Board meetings within a twelve (12) consecutive month period shall be deemed to have resigned from the Board, in which event the vacancy, so created, shall be filled in accordance with the aforesaid provisions of these By-Laws.

**Section 13.** Recall of Board Members: A member of the Board may be removed from

office in accordance with the recall procedure provided in this section.

A recall petition demanding the removal of a designated Board member must cite the applicable Article and Section of the Community By-Laws, Covenants and/or Rules and Regulations. It must be signed by members in good standing holding at least 10% of the votes that all members of the Association are entitled to cast and shall be mailed to the Secretary by Certified Mail, Return Receipt Requested. (See MLEPOA form).

Within ten (10) days of receipt of the petition, the Secretary shall determine whether or not the petition is sufficient and shall, within two (2) days, serve the Board member with a copy of the petition by Certified Mail, Return Receipt Requested. If within fourteen (14) days after such service, the Board member in question does not resign, the Secretary shall fix a weekend date at least forty-five (45) days but no more than sixty (60) days after the serving of the petition for the holding of a special membership meeting, at which a recall election shall be held. Notice of the filing of a petition, a copy thereof and notice of the date of the election shall be sent by the Secretary to all members by first-class mail at least thirty (30) days prior to the meeting. The Board member whose removal is sought shall have the right to make a statement in his or her own behalf on one side of an 8-1/2 x 11 typewritten sheet of paper which shall be printed in the notice of the meeting and the official publication of the Association. If the recall election does not result in the Board member's removal, no further recall petition may be filed against the same Board member for the same cause.

## **Article VII - The Officers**

**Section 1.** The officers of the Association will be the President, one (1) Vice President, the Secretary and the Treasurer.

**Section 2.** The President will be the general managerial officer of the Association, except as otherwise determined by the Board. He/she shall be vested with the powers and duties generally incident to the office of President of a non-profit corporation, and as otherwise set forth in these By-Laws. The President will have to become certified in Emergency Management Plan (see Emergency Management Plan for details). The President shall vote only to break a tie of the Board.

**Section 3.** In the absence of the President, or in the event of his/her inability or refusal to act, the Vice-President is empowered to act and shall thereupon be vested with the powers and duties of President.

**Section 4.** The Secretary of the Association will keep the minutes of the business and other matters transacted at the meetings of the Members and of the Board. He/she will mail, or cause to be mailed, all notices required under the By-Laws. He/she will supervise and manage custody of the corporate seal and Association records, along with maintaining/updating the list of members and their addresses. He/she shall direct the office staff with regard to all correspondence and perform such other acts as may be required to maintain the records of the Association. The records shall be kept in the office of the Association, unless another location is specified by the Board. In the event the Secretary is not available, the Vice-President may sign and affix the corporate seal. In the absence of the Vice-President, the President may sign and affix the corporate seal.

**Section 5.** The Treasurer, under the supervision of the Board, shall oversee the collection of monies due, the payment of the obligations of the Association out of its funds, and the performance of such other duties as are incident to the office of Treasurer. The Board may require that the Treasurer, and/or an employee designated by the Board be bonded for such amount and under such conditions as the Board may require. The cost of any such bond will be paid by the Association.

Any and all investments of Association funds shall be presented to the Board by the Treasurer and/or employee designated by the Board for approval.

### **Article VIII - Association Fees and Assessments**

**Section 1.** General Rule. The Association, through its Board as hereafter set forth, may levy Association Fees, annual dues, assessments, fees, fines and other charges on the members.

**Section 2.** Amount and Method of Collection – The amount of the annual dues or special assessment and method of payment of same will be fixed by the Board, taking into consideration adoption of the budgets as hereinafter set forth. Each member will be mailed, at the address last given by such member of the Association, notice of any annual dues or special assessment which shall be paid on or before the date fixed by resolution of the Board. The Board may set a discount period for payment before the due date and an interest charge and/or penalty for late payment unless a payment plan is arranged, through the office, by the member.

**Section 3.** Enforcement of Payment – The Board may bring such actions as it shall determine appropriate at law or in equity necessary to enforce the collection of delinquent annual fees, special assessments, fines or other charges that are delinquent after sixty (60) days from their due date. The Board may also suspend the membership privileges and impose or enforce a lien or liens upon a member's property(s). In all such cases, however, reasonable notice shall be given to such members with respect to any such nonpayment and there shall be given to such member an opportunity for reinstatement of membership privileges upon satisfactory proof that such delinquency has been corrected. The annual dues and assessments, together with such interest thereon, attorney fees in the amount of \$250.00 and other costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made.

**Section 4.** The financial obligation of Membership may be increased by the Board, provided that such increase shall not exceed 7% of those obligations for the fiscal year of the Association immediately preceding that in which the increase shall be effective.

**Section 5.** Special Assessments will be limited to 25% of the current year's annual dues and will become effective only if adopted by the Board. Increases in Special Assessments in excess of such amount will not become effective until the same are adopted by the Board and approved by the majority of the members in good standing voting thereon.

### **Article IX - Financial Management**

**Section 1.** Accounting Period – The Association’s fiscal management will operate within the fiscal year, May 1 to April 30. The fiscal year herein established however, will be subject to change by a majority vote of the Board.

**Section 2.** Books and Accounts - Books and accounts of the Association will be kept under the direction of the Treasurer subject to the member’s right of inspection. All checks of the Association will require two (2) authorized signatures approved by the Board except payroll checks, which shall require only one (1) approved signature.

**Section 3.** Preliminary Budget – The Board, at least six (6) months prior to the beginning of each fiscal year, will direct the Finance Committee to prepare a budget. This committee will consist of no less than five (5) nor more than nine (9) members, of which at least one will be the Treasurer and one the Assistant Treasurer and/or Office Manager.

The Finance Committee will prepare for the next succeeding fiscal year the following budgets:

- Annual Operating Expense Budget
- Annual Capital Expense Budget
- Annual Revenue Budget
- Annual Reserves
- Cash Flow Statement

Each of the preliminary budgets will be prepared and available for submission to the Board and Membership by February 1st of each year. The proposed budgets, after submission to the Board for review, modification and approval, and prior to being acted upon by the Board, will be published for a period of not less than thirty (30) days to allow the members of the Association an opportunity to review same and to comment thereon, either at hearings held thereon or through such other means as the Board may agree upon.

**Section 4.** Publication of Preliminary Budget – The budgets being approved and acted upon by the Board will be published in the Association newsletter or a copy thereof sent to each member of the Association and may, at the Board’s sole discretion, be posted on the Association Website.

**Section 5.** Adoption of the Budget – The Board by majority vote will adopt the final budget, which will be itemized with particularity and which may contain such changes, additions, deletions, or corrections as the Board deems appropriate and in the best interest of the Association, by March 31st. This adopted budget will be effective for the fiscal year to which it applies. After the proposed budget has been adopted by the Board, the Board will, after taking into consideration other sources of income that the Association may have, levy the annual dues for each Lot Owner for the following year in accordance with the terms and conditions of the By-Laws and Declaration. Notice of Assessment of the annual dues will be mailed at least thirty (30) days prior to May 1st, and may, at the Board’s sole discretion, be posted on the Association Website.

**Section 6.** Financial Statements – Financial Statements shall be prepared each year by a CPA hired by the Board of Directors.

**Section 7.** Any expense exceeding a line item on the budget by five hundred dollars

(\$500.00) must be approved by the Board.

**Section 8.** *WHEREAS, Marcel Lake Estates Board of Directors voted to establish an Unanticipated Catastrophic Line in their 2008-2009 budget, WHEREAS, this money is to be set in an interest bearing account and remain in account until the fund is depleted. WHEREAS, the amount of monies for this capital budget line was established at \$100,000, WHEREAS, The Board of Directors in order to protect these monies for Unanticipated Catastrophic use only, voted to release this money with 2/3 vote of established Board Members not a simple majority, THEREFORE, be it resolved that this motion be memorialized in the By-Laws of Marcel Lake Estates Property Owners Association at the annual Property Association meeting September 9th, 2008.*

## **Article X – Committees**

**Section 1.** The standing committees of the Association shall be:

- Finance Committee: shall prepare an Annual Operating Expense Budget, Annual Capital Expense Budget, Annual Revenue Budget, Annual Reserves, Cash Flow Statement
- b) Social and Recreation Committee: oversees clubhouse rentals and plans, organizes, and hosts social and recreational activities for children and adults throughout the year; meets as necessary
- c) Communications Committee: will be responsible for developing and publishing the newsletter and overseeing the website; meets as needed
- d) Nominating Committee: shall recommend to the membership, in writing, a slate of Officers and Directors
- e) Disciplinary Committee: serves at hearings requested by property owners, to make recommendations to the board; meets as needed.
- f) Such other committees as shall be established from time to time by the Board

Unless otherwise provided herein or by the Board, each committee will consist of not less than two (2) members, one of whom should be a member of the Board of Directors. Each committee will have a Chairperson, appointed by the President, who will be a member of the Board, if possible. Appointments to standing committees will be made annually, subsequent to each annual meeting of the Association.

The Committee Chairperson of each Committee will:

- schedule and conduct an organizational committee meeting within 30 days subsequent to the Annual Meeting;
- b) schedule and conduct committee meetings as necessary;
- c) delegate tasks to committee members as necessary;
- d) prepare and present reports to the Board of Directors following each meeting and/or event; and,
- e) work with the Communications Committee and office staff to disseminate information.

The Social & Recreational Committee Chairperson will work with the committee to develop a calendar of events for the entire year and present it to the Board of Directors.

The Communications Committee will prepare flyers, posters, and notices for the Committee Chairperson and post community events on the website and in the community newsletter. The office staff will work with the Communications Committee to advertise community events and prepare copies of flyers and other notices for distribution.

**Section 2.** Committee members will serve at the pleasure of the Board and may be removed or replaced at any time at the discretion of the Board.

**Section 3.** Each committee will have power to appoint a subcommittee from among its membership and may delegate to any such committee any of its power, duties, and functions.

**Section 4.** The President may serve as an ex-officio member of all committees, without a vote.

### **Article XI - Books and Papers Inspection**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any member at the offices of the Association under the supervision of a Board member. Copies of requested records will be made available at a cost in accordance with the fee schedule. All requests must be submitted three (3) days in advance by using the appropriate form.

### **Article XII - Corporate Seal**

The Association shall have a Corporate Seal in the form adopted by the Board, maintained in the office.

### **Article XIII – Amendments**

**Section 1.** These By-Laws may be amended by a 2/3 majority vote of ballots returned at the Annual Meeting or Special Meeting, provided that any matter governed by the Declaration may not be amended except as provided in said Declaration. Ballots will be mailed to members in good standing at least 30 days prior to the Annual or Special Meeting as follows: Two envelopes will be mailed to each deeded property owner; one will contain the ballot and the other will be used to return the ballot to the Association, will contain the return address of the deeded property owner, and will be logged in and counted as a vote.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles will control; and any conflict between these By-Laws and the Declaration, the Declaration shall control.

### **Article XIV - Declaration Incorporated by Reference**

The Declaration, in its entirety and not only to the extent specifically referred to in these By-Laws, is hereby incorporated into and made a part of these By-Laws of the

Association.

## **Article XV - Community Manager**

**Section 1.** The day to day affairs of the Association shall be administered by a Community Manager, or Management Company, and/or Board of Directors.

The Manager or management company, and/or Board of Directors will be the Chief Operating and Administrative Officer of the Association. The Board will choose the Manager or Management company by majority vote.

**Section 2.** Appointment and Tenure – The Manager or management company will be appointed for a term, agreed to by the Board, and may be removed by a 2/3 vote of the Board. At least thirty days before such removal becomes effective, the Board will notify the Manager or management company of its decision to remove him/her from office, stating the reasons for his/her removal. The Manager may reply in writing and may request a Board hearing which will be held not sooner than twenty days nor later than thirty days after filing the request. After such a hearing, if one is requested, and after full consideration, the Board may suspend the Manager or management company from duty.

**Section 3.** Specific Duties – The Manager or management company and/or Board of Directors shall:

Be the chief operating office of the Association.

Execute the rules and regulations as promulgated by the Board of Directors.

Appoint and have power to employ or remove employees with the approval of the Board of Directors.

Negotiate contracts for the community, subject to the approval of the Board, make recommendations concerning the nature and location of community improvements, and execute community improvements as determined by the Board.

Ensure that all terms and conditions imposed in favor of the Association or its members in any statute, public utility franchise, or other contract are faithfully kept and performed and, upon knowledge of any violation, call the same to the attention of the Board of Directors.

Attend all requested meetings of the Board of Directors, with the right to take part in the discussions, but without the right to vote. Agenda to be posted three (3) days prior to the meeting.

Make such recommendations to the Board concerning policy formulation as he/she deems desirable and keep the Board and the public informed as to the conduct of the Association affairs.

Assist the Treasurer in the preparation of the annual budget.

Perform such other duties as may be required of the Manager by resolution of the Board of Directors.

## **Article XVI - Liability of Officers and Directors**

### **Section 1.**

Each officer and director of the Board of the Association shall stand in a fiduciary relation to the



Association and its Members.

Each Director will perform the duties as such Director (including the duties as a member of any committee or committees), or refrain from performance of such duties, in good faith and in a manner reasonably believed to be in the Association's best interests. Furthermore, in performing or refraining from performing such duties, each Director will exercise that degree of care as an individual of ordinary prudence would exercise under similar circumstances.

In determining whether a Director acted or refrained from acting in good faith, that Director will be entitled to rely on information, reports, statements and similar information, including financial data as prepared by the Manager and other Association employees or independent contractors whom the Director reasonably believes to be competent in the matter presented. Also, a Director may rely upon informational reports, data, accounts, and similar materials as prepared by counsel and accountants whom the Director reasonably believes to have exercised professional and/or expert competence in the matter presented. Finally, a Director may rely on the reports, statements, and similar information of any committee of the Board as to matters within its designated authority; provided, however, that the Director does not serve upon such committee.

A director shall be deemed to act or fail to act in the absence of good faith when that Director has actual knowledge regarding the matter in question that would cause such Director's reliance on the reports, statements and other information provided by others to be unwarranted.

In determining what is or is not in the Association's best interests, a Director may consider the following factors, including, but not limited by way of specification; the effects of any action or failure to act upon the members, Association's employees, Association's suppliers, and the community at large where the Association is situate, as well as other pertinent factors.

When breach of fiduciary duty, lack of good faith, and self-dealing are absent, it shall be presumed that

a Director's actions or a Director's failure to act shall be in the best interest of the Association.

(g) A Director will not be liable for monetary damages for action or for the failure to act unless:

- (i) The Director has breached or failed to perform the duties as Director under the standard of care described herein-above; and
- (ii) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

## **Section 2. Indemnification of Officers and Directors**

a) The Association shall indemnify a person who was, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was an officer or member of the Board (hereinafter collectively "Director(s)"), but only if it is determined in accordance with Subsection I of this Section that the person:

- (i) conducted himself/herself in good faith;
- (ii) reasonably believed:
  - in the case of conduct in his/her official capacity as a Director that his conduct was in the Association's best interest; and,
  - in all other cases, that his conduct was at least not opposed to the

- Association's best interest; and
- (iii) in the case of any criminal proceeding, had no reasonable cause to believe that his conduct was unlawful.
- b) A Director may not be indemnified under Subsection (a) of this Section for obligations resulting from a proceeding:
  - (i) in which the person is found liable on the basis that personal benefit was improperly received by him/her, whether or not the benefit resulted from an action taken in the person's official capacity; or,
  - (ii) in which the person is found liable to the Association.

The termination of a proceeding by judgment, order, settlement, or conviction or on a plea of nolo contendere or its equivalent is not of itself determinative that the person did not meet the requirements set forth in Subsection (a) of this Section.

A person may be indemnified under Subsection (a) of this Section against judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses actually incurred by the person in connection with the proceeding; but if the proceeding was brought by or in behalf of the Association, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

- e) A determination of indemnification under Subsection (a) of this Section must be made:
  - (i) by a majority vote of a quorum of the Board who at the time of the vote are not named defendants or respondents in the proceeding;
  - (ii) if such a quorum cannot be obtained, by a majority vote of a committee of the Board, designated to act in the matter by a majority vote of all members of the Board, consisting solely of two or more Board members who at the time of the vote are not named defendants or respondents in the proceeding;
  - (iii) by special legal counsel selected by the Board or by the members at a Special Meeting in a vote that excludes all Directors who are named defendants or respondents in the proceedings.
- f) The Association shall indemnify a Director against reasonable expenses incurred by him/her in connection with a proceeding in which he/she is a named defendant or respondent because he/she is or was a Director, if he/she has been wholly successful, on the merits or otherwise, in the defense of the proceeding.
- g) Reasonable expenses incurred by a Director or who was, is, or is threatened to be made or named a defendant or respondent in a proceeding shall be paid or reimbursed by the Association in advance of the final disposition of the proceeding after:
  - (i) the Association receives a written affirmation by the Director of his good faith belief that he/she has met the standard of conduct necessary for indemnification under this Article and a written undertaking by or on behalf of the Director to repay the amount paid or reimbursed if it is ultimately determined that he has not met those requirements; and,
  - (ii) a determination that the facts then known to those making the determination would not preclude indemnification under this Section.

**Section 3.** The Board is authorized and is required to purchase officers and directors insurance.

### **Article XVII - Conflict of Interest**

Every contract or transaction between the Association and one of its officers, Board members and employees or any other entity in which one (1) or more of the aforementioned has an interest will be voidable at the instance of the Association and shall not be enforceable at the instance of the officer, Board member or employee or other party. Any officer, Board member, or employee shall be deemed to have vacated office if involved in any such conflict of interest.

### **Article XVIII - Dissolution of the Association**

In the event the Association is dissolved, no part or parts of the assets, at the time of dissolution, can be distributed to the individual members.