

10/2019

**BY-LAWS
OF THE
OYSTER BAY II COMMUNITY PROPERTY OWNERS ASSOCIATION**

Chincoteague Island, Accomack County, Virginia

ARTICLE I NAME AND LOCATION.

The name of the Association is OYSTER BAY II COMMUNITY PROPERTY OWNERS' ASSOCIATION, hereinafter referred to as the "Association". The principal office of the Association shall be located at Chincoteague, Virginia, but meetings of Members and Directors may be held at such places as may be designated by the Board of Directors. *[Revised October 22, 2011.]*

ARTICLE II DEFINITIONS

Section 1. "Association" shall mean and refer to the Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in plats of land, entitled Oyster Bay Community, Section 2, Subdivisions A, B, C and D, located on Chincoteague Island, Accomack County, Virginia, which is duly recorded in the Clerk's office for the Circuit Court of Accomack County, along with certain Covenants and Restrictions, a copy of which is hereto attached.

Section 3. "Common Area" shall mean all real property owned now or in the future by the Association for the common use and enjoyment of the Members of the Association.

Section 4. "Lot" shall mean and refer to any plat of land shown upon the recorded subdivision plat of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who owns a lot or lots in the Oyster Bay II Community. "Member in Good Standing" shall mean a Member whose dues and assessments are current.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Oyster Bay II Community recorded in the Office of the Clerk of the Circuit Court of Accomack County. *[Revised October 22, 2011]*

Section 8. "Year" shall mean the calendar year beginning January 1 and ending December 31. *[Revised May 18, 1996.]*

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ARTICLE III MEMBERSHIP

Section 1. Membership. All persons or entities who are record owners of a fee simple title to any lot shown upon the recorded subdivision maps of the properties shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot. Ownership of such lot shall be the sole qualification for membership. Voting shall be cumulative and equal to the number of lots owned by any member.

Section 2. Suspension of Voting Rights. During any period in which a Member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights of such Member shall be considered suspended until such assessment, along with applicable penalties, interest and collection fees have been paid. Notice of such suspension will be included in a Default Notice provided by the Treasurer to the Member.

ARTICLE IV PROPERTY RIGHTS

Section 1. Rights of Enjoyment. Each Member shall be entitled to the use and enjoyment of the Common Area and facilities as provided in the Declaration. Any Member may delegate his rights of enjoyment of the Common Area and facilities to the members of his family, his guests or his tenants, who reside on the property.

ARTICLE V BOARD OF DIRECTORS

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors consisting of not more than ten (10) individuals who are Members in Good Standing of the Association.

Section 2. Selection and Term of Office. At each annual meeting, the Members shall elect the Directors for a term of one year, casting votes in the proportion to which they are entitled under Article 2 of the Articles of Incorporation. The term period of the Directors so elected shall be concurrent with the 'year' as defined in Article 2, Section 8 of these By-Laws. *[Revised October 22, 2011]*

Section 3. Removal and Reinstatement. Any Director may be removed from the Board, with cause, by a majority vote of the Members of the Association. The suspension of Voting Rights is also considered to apply to the voting rights of the Directors of the Board. If any Director is delinquent in the payment of assessments and applicable penalties, interest and collection fees for more than ninety (90) days beyond the date of any past due notice, the Director shall be considered removed from the Board. The Director may be reinstated by majority vote of the remaining Board Members upon payment of all delinquent assessments and charges. In the event of death, resignation or removal of a director, the successor shall be selected by a majority of the

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remaining members of the Board and shall serve for the un-expired term of his predecessor.
[Revised October 22, 2011]

Section 4. Compensation. No director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of duties, as authorized by the Board.

Section 5. Action Taken Without a Meeting. The Directors shall have a right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a simple majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors. *[Revised October 22, 2011]*

ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually without written notice, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any three directors, after not less than fifteen (15) days' written notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. *[Revised October 22, 2011]*

ARTICLE VII NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made from the floor at the annual meeting, such nominations to be made from among the Members.

Section 2. Election. Election to the Board of Directors shall be by voice vote. If a voice vote is indeterminate, election shall be by written ballot. At such election, the members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation. The persons receiving the largest number of votes shall be elected. In the event that ten or fewer members are nominated for the Board of Directors, the Secretary shall have the option to cast a single ballot for the members nominated. *[Revised October 22, 2011]*

ARTICLE VIII POWER AND DUTIES OF THE BOARD OF DIRECTORS

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

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- (a) Adopt and publish rules and regulations in accordance with the Declaration governing the use of the Common Areas and facilities, the waterways and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of the By-Laws, the Articles of Incorporation, or the Declaration;
- (c) Declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive meetings of the Board of Directors;
- (d) Acquire the services of independent contractors or such other agents to perform prescribed duties as deemed necessary, none of which are to be considered employees of the Association; *[Revised October 21, 2000]*
- (e) Bring suit and defend action brought against the Association.
- (f) Maintain and revise the By-Laws as required to best serve the Oyster Bay II Community. *[Revised October 22, 2011]*

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

- (a) Cause to be kept a written record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members or at any special meeting, when such statement is requested in writing by one tenth (1/10) of the Members who are entitled to vote;
- (b) Supervise all officers, independent contractors and such other agents of this Association, and see that their duties are properly performed; *[Revised October 21, 2000]*
- (c) As more fully provided herein, to:
 - (1) Fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period, as provided in the Declaration of Covenants and Restrictions. *[Revised October 22, 2011]*
 - (2) Send, or cause to be sent, written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period.
 - (3) Issue, or cause to be issued upon demand by any person, a certificate setting forth whether or not any assessment along with any penalties, interest or other charges, has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If such a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment. Further, the Board of Directors shall send, or cause to be sent, within fourteen (14) days of written request

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by the seller of any lot in the community, a "Property Owner's Association Disclosure Packet" to any purchaser or his agent in accordance with the requirements of Virginia Code, Section 55-512. A charge for the Packet as determined by the Board of Directors shall apply. The Packet shall contain, but is not limited to:

- The certificate stating the current payment status of any assessments or charges levied by the Association;
- The name of the Association and the name and address of its registered agent in Virginia;
- A copy of the current declaration and the Association's Articles of Incorporation and By-Laws and any rules and regulations or architectural guidelines promulgated by the Association;
- A copy of the Association's current budget or a summary thereof, and a copy of its statement of income and expenses or statement of its financial condition for the last fiscal year for which such statement is available;
- A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the Association applicable to the lot being purchased and to the right of use of common areas and the status of account;
- A statement whether there is any other entity or facility to which the lot owner may be liable for fees or other charges;
- A statement of any capital expenditure anticipated by the association within the current year and where available the two succeeding fiscal years;
- A statement or a summary of the status and amount of any reserve or replacement fund and any portion of the fund allocated by the Board of Directors for a specified project;
- A statement of the nature of any pending suit or unpaid judgment to which the Association is a party which either could or would have a material impact on the Association or its members or which relates to the lot being purchased;
- A statement setting forth all insurance coverage, including any fidelity bond, maintained by the Association; and
- A statement as to whether any notice has been given to the seller that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto, are in violation of any of the instruments referred to in Subdivision 2 of this Subsection.

(4) Procure and maintain adequate liability and hazard insurance on property owned by the Association.

(5) Cause all officers, independent contractors and/or such other agents having fiscal responsibilities to be bonded as it may deem appropriate. *[Revised October 21, 2000]*

(6) Cause the common areas to be maintained.

(d) Arrange for the availability, operation and maintenance of utility services for the

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community as may be with the power of the Board, including but not limited to, electricity, water, sewer and telephone services.

- (e) Provide for an annual audit of the Association's books. Develop the annual budget and statement of income and expenditures to be presented to the Membership at its regular Annual Meeting for approval and supervise the execution of the approved annual budget.

ARTICLE IX COMMITTEES

Section 1. The Board of Directors of the Association shall appoint those committees as deemed appropriate in carrying out its purposes. The functions of committees may be combined or separated as deemed appropriate by the Board. Committees may include, but not be limited to, the following:

- (a) An Architectural Committee as provided for in the Declaration. This committee shall also provide suitable measures to ensure the safety of the residents and the protection of their real and personal property and shall perform such other functions as the Board deems appropriate.
- (b) A Maintenance Committee to advise the board of Directors on all matters pertaining to the maintenance, repair or improvement of the Common Areas including the grounds, streets, lakes, and other areas as deemed appropriate.
- (c) A Utilities Committee to advise the Board on all matters pertaining to community utility services including electricity, water, sewer and telephone. For sewer services the committee shall be responsible for awarding permits for hook-up to the community sewer system and for collecting the associated application and hook-up fees. The committee shall also be responsible for monitoring the operation of the Oyster Bay Water and Sewer Company and advising the Board as appropriate.

Section 2. It shall be the duty of each Committee to receive complaints from Members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer to such other committee, director or officer of the Board of Directors most concerned with the matter presented.

ARTICLE X MEETING OF MEMBERS

Section 1. Annual Meetings. Each Annual Meeting of the Members shall be held in the fourth quarter of the calendar year at a time and place specified by the Board of Directors. *[Revised May 18, 1996]*

Section 2. Special Meetings. Special Meetings may be called at any time by the Directors, or upon written request of one-tenth (1/10) of the Members who are entitled to vote.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by

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the Secretary or person authorized to call the meeting by mailing a copy of such notice, postage pre-paid, at least fifteen (15) days before such meeting, to each Member entitled to vote thereat, addressed to the member's most recent address appearing on the books of the Association, or to such address supplied by such member to the Association for the purpose of notice. Such notices shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. Each lot in the community shall represent one vote. Members in Good Standing are entitled to cast one vote for each lot owned. The presence at meetings of Members in Good Standing entitled to cast, or of Proxies entitled to cast, votes representing twenty (20) or more lots shall constitute a Quorum for any action, except as otherwise provided in the Articles of Incorporation or these By-Laws. If, however, such Quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting, without notice other than announcement at the meeting, until a Quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by Proxy. All Proxies shall be in writing, in a form approved by the Board of Directors, and filed with the Secretary.

ARTICLE XI OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The Officers of this Association shall be a President, who shall at all times be a Member of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of Officers shall take place at the first meeting of the Board of Directors following each Annual Meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless the officer sooner resigns, or is removed or otherwise disqualified to serve. The term period of the officers so elected shall be concurrent with the 'year' as defined in Article 2, Section 8 of these By-Laws. *[Revised October 22, 2011]*

Section 4. Special Appointments. The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any Officer may be removed from office with cause by the Board. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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Section 6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Officers. Only the offices of Secretary and Treasurer may be held by the same person.

Section 8. Duties. The duties of the officers are as follows:

- (a) **PRESIDENT:** The President shall preside at all general membership meetings and at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all checks as an alternate to the Treasurer; shall co-sign all promissory notes and shall sign other written instruments as authorized by the Board.
- (b) **SECRETARY:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and the Members; keep the Corporate Seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association, together with their addresses; and shall perform such other duties as required by the Board.
- (c) **TREASURER:** The treasurer shall receive and deposit in an appropriate bank account all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall be the primary signer of all checks with the President as an alternate; shall co-sign all promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE XII ASSESSMENTS AND PENALTIES

[Revised October 21, 2019]

Section 1. Creation of the Lien and Personal Obligation of Assessments. By the Declaration, each member is deemed to covenant and agrees to pay to the Association annual assessments or charges. The annual assessments, together with such interest thereon and costs of collection and any legal fees thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of Record of such property at the time when the assessment fees were due and payable and that, upon the conveyance of any lot, the purchasers thereof and each and every successive owner or owners shall, from time of acquiring title, covenant and agree to pay the Association.

Section 2. Purpose of Assessments and Penalties. The assessments, fees and penalties levied

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by the Association shall be used exclusively for the purpose of promoting and maintaining the recreation, health, safety and welfare of the owners of the lots and, in particular, for the improvement and maintenance of facilities devoted to the common use and enjoyment of the members.

Section 3. Payment of Assessments. As provided in the Declaration, each member is subject to an annual assessment of such sum as may be determined by the Association, which the member agrees to pay to the Association annually on the first (1st) day of January. In the event an individual owns more than ten (10) lots, payment may be made in two installments of one-half the total assessment each, the first installment shall be due and payable on the first (1st) day of January and the second installment shall be due and payable by the first (1st) day of July of the same year. When ownership of a lot is transferred, it shall be the responsibility of the seller to pay the full annual assessment levied for the year in which the transfer occurs. In the event any past assessments are unpaid at the time ownership of a lot is transferred, or thereafter, the purchaser shall be liable for such assessments. A certificate is available from the Association, upon request by the purchaser, which states the amount of any past due assessments and charges due to the Association by the seller. *[Revised October 22, 2011]*

Section 4. Effect of Non-Payment of Assessments. Any assessments which are not paid when due shall be delinquent. Non-receipt of a dues notice or reminder shall not constitute justification for non-payment of Dues. If the Dues payment is not received by the thirty-first (31st) day of January, (and by the thirty-first (31st) day of July for lot owners paying in two installments as provided in Section 3) the assessment shall be delinquent. Delinquent assessments shall be subject to a late payment penalty and to interest at rates specified by the Association, from the due date to the last day of the month in which payment is received and shall be subject to such additional penalties as may be established by the Association. *[Revised October 22, 2011]*

Section 5. **Penalties for Non-Compliance with the Declaration.** The Association shall notify any lot owner not in compliance with the Declaration and advise of the penalties for non-compliance. The Association shall impose fines for non-compliance as defined in the Virginia Property Owners Association Act. For continued non-compliance, the Association shall bring action against lot owners including the levy of charges for reimbursement of costs incurred to remedy instances of non-compliance and actions at law against the lot owner to include establishment and foreclosure of a lien on the property. *[Section 5 added October 21, 2019, 2019]*

Section 6. The Association may bring an action at law against the member personally obligated to pay the assessment, **charge or penalty** or foreclose a lien against the property. Interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment **or penalty**. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas, or by abandonment of his lot. *[Revised October 21, 2019]*

Section 7. Exempt Property. The following property subject to the declaration shall be exempt from the assessments created therein:

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- a. All properties dedicated to and accepted by a local public authority, and
- b. The Common Areas.

ARTICLE XIII BOOKS AND RECORDS

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable costs.

ARTICLE XIV CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Oyster Bay II Community Property Owners' Association.

ARTICLE XV REVISION OF THE BY-LAWS

These By-Laws of the Oyster Bay II Community Property Owners Association may be amended by two-thirds (2/3) majority of the directors of the Association. Notice of a meeting to act on a proposed amendment shall be given to each director entitled to vote not less than twenty-five (25) days nor more than sixty (60) days prior to the meeting. *[Revised October 22, 2011]*

**Amendment 4
Approved October 21, 2019**